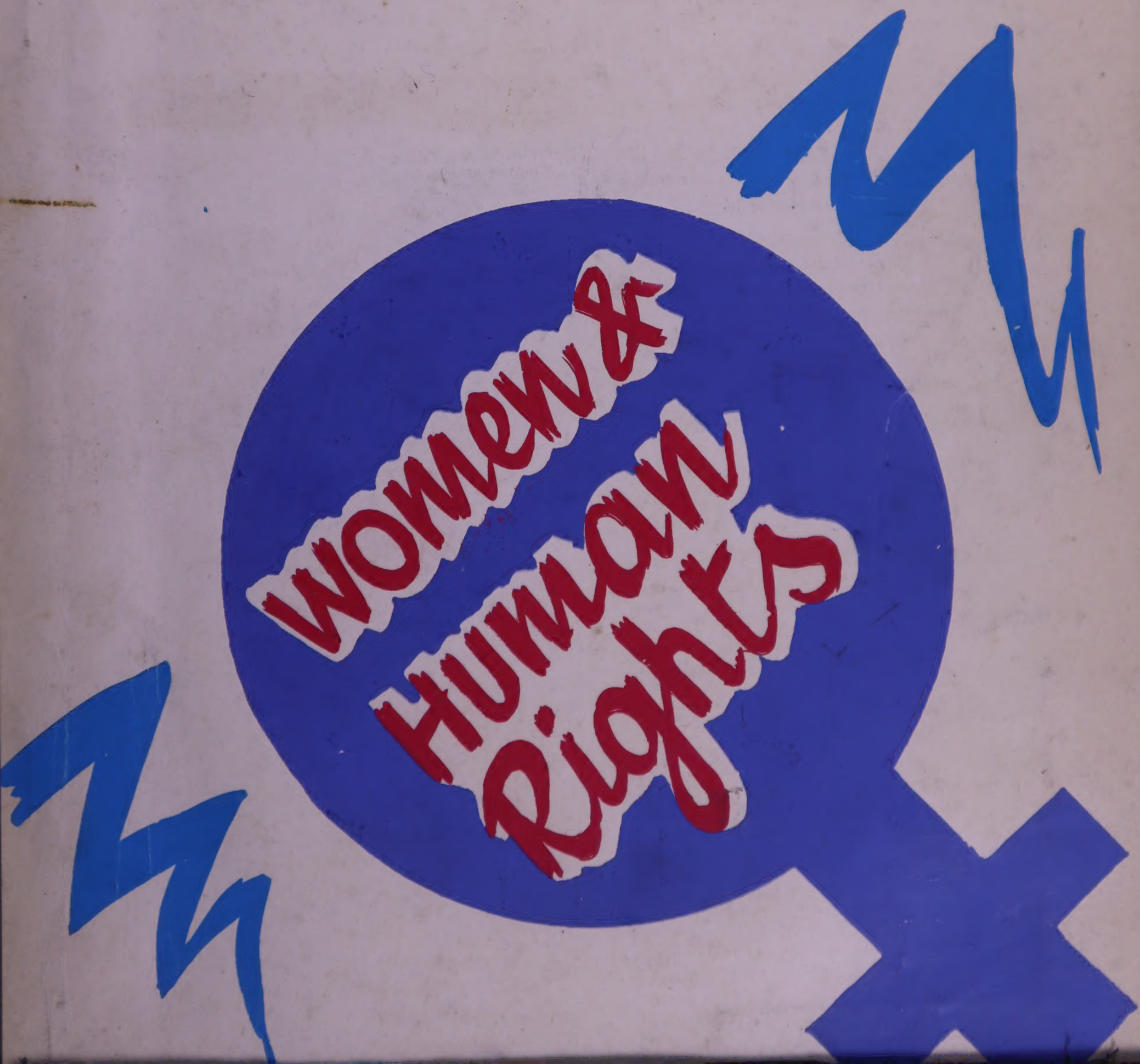


PERSPECTIVES

LEGAL

DOCUMENTATION FILE No. 35

Women &
Human
Rights



Legal Resources for Social Action

Legal Resources for Social Action (LRSA) was formed in 1986 to help, support and promote the growing, innovative legal services and human rights movement in India. It functions as a programme unit of Rural Development Society (RDS), a non-profit, non-governmental organisation.

LRSA team consists of lawyers, legal activists, and paralegal workers, all of whom seek to follow ideals of internal democracy, collective decision making and non-hierarchical working environment.

LRSA believes that "Development" is a process of creating and guaranteeing conditions in which people can enjoy, exercise and utilise all their human rights, economic, social, cultural, as well as civil and political. This calls for the organisation and mobilisation of people for self reliant development. Law and legal resources is important in this process.

The primary purpose of LRSA is to use law, law resources and legal practice to change society. Its efforts are towards demystifying law. It seeks to use law to redistribute power and change social structures by a process of empowerment of the poor and disadvantaged sections of people.

Objectives

- to promote and protect the observance of human rights.
- to advance the understanding and observance of the rule of law.
- to contribute to the evolution of alternative jurisprudence.
- to promote alternative use of law to empower peoples organisations that are working for social change.
- to participate and strengthen evolution of a popular grassroots democratic movement.
- to provide legal assistance and legal resources to individuals and communities.
- to encourage the development of critical legal practice which uses law in the service of social change.
- to promote and support initiatives of law students and law teachers in making legal education relevant to the process of development.
- to encourage the development of new forms of communication and support between groups of lawyers and peoples movements.
- to enable voluntary organisations to use law as a support resource for the empowerment of people.

Com
Library and Documentation Unit
BANGALORE

The focus of LRSA's programmes are related to Human Rights, the Indian Legal System and the Indian Constitution. The special areas of law and policy dealt with are:

Gender justice
Land Rights
Housing Rights
Labour Rights

Rights of disadvantaged groups such as Dalits, Tribals, Minorities

Decentralisation
Environmental protection
Consumer Rights

Activities

- Training programmes
- Seminars and Workshops
- Documentation and dissemination
- Publications
- Legal Perspectives
- Participatory Action Research
- Campaigns and Networking
- Programmes for lawyers and law students
- Legal Advice and Assistance
- Public Interest Advocacy
- Alternate Dispute Resolution
- Fact finding Missions
- Internship Programme
- Consultancy Services to NGOs

Training Centre

LRSA, the Community Development Project (CDP) of RDS, and the Rural Women's Social Education Centre (RUWSEC) jointly maintain a training centre at Vallam village, 4 Kilo meters from Chengalpattu Town. Moderate food and staying accommodation facilities are available. This training center is located in a calm and green environment.

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Women & Human Rights

Convention on the Elimination of all forms of Discrimination against Women

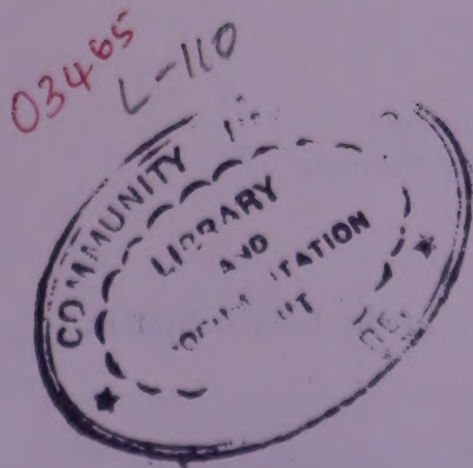
This Issue of Legal Perspectives which is released on 8 March deals with Women's Right as Human Rights. The purpose of this Issue is to contribute further to the understanding of the link between women's rights and human rights.

The World Conference on Human Rights held in Vienna in June 1994, affirmed that, 'The human rights of women and of the girl-child are an inalienable, integral part of universal human rights'. The World Conference urged, 'Governments, Institutions, Inter-governmental and non-governmental organisations to intensify their efforts for the protection and promotion of human rights of women and the girl-child'.

The recognition of Women's Rights as Human Rights by the Vienna Declaration and Programme of Action was due to historic presence of women at the World conference. Their presence and success in Vienna was due to unprecedented level of mobilisation by women's groups from all over the world. The preparations for the mobilisation of women for Vienna included theoretical discussions and debates to educate women's groups on the link between women's rights and human rights.

Ms. Charlotte Bunch was one of the main persons who contributed immensely to the debate on women's rights as human rights and was also closely involved in the mobilisation of women for World Conference. The article 'Women's Rights as Human Rights: Toward A Re-vision of Human Rights' written by her provided an important basis for mobilisation of women for Vienna. In this Issue of Legal Perspectives, we are reproducing this article of Ms. Charlotte Bunch so that it can be read and discussed by human rights activists in India.

In Vienna, a major victory for women was the recognition by the world community of the importance of elimination of



violence against women in public and private life. The recognition that violence committed against women in private spheres constitute a violation of their human rights is a major development in the field of human rights. This also poses challenges to human rights activists who traditionally fight their battles with the state and are very often ill-equipped to deal with violence in the civil society.

In addition to Charlotte Bunch's article, we are also reproducing three other articles to contribute to further understanding of the complex issue of violence committed against women by the civil society.

The first article by Roxanna Carrillo argues that policies and programmes conducted for increasing the status of women are doomed to failure if they do not address the issue of violence against women. This article explains the cost of violence not only for women but for the whole society.

The second article by Radhika Coomaraswamy argues the need to fight the battle for women's rights in the civil society. In this article, Coomaraswamy raises an important point that in the South Asian societies, human rights does not have legitimacy when it comes to cultural aspects in community life. According to her in the area of culture and community, it is nationalism and fundamentalism that have a greater say. The problem she poses is how to ensure diversity of culture and traditions while safeguarding minimum standards of human life and dignity, particularly when it comes to women.

The third article by Ramya Subramaniam stresses the need for exposing the contradictions within the state when it comes to protecting the rights of women. In this article, Ms. Ramya Subramaniam argues that despite the influence of dominant socially powerful groups, the state does play the role of protecting universal rights of citizens. According to her, the manner in which the state enforces norms should be analysed further to highlight the situations of women. For example, the state refuses to intervene against violations of women's rights within the family and community on the argument that it is private sphere of women's life. On the other hand, the state does not hesitate to intervene in the private sphere of women when it comes to regulating the reproductive choice of women.

In addition, to these articles, we are also publishing an article by Karino Constantino - David on 'NGO Strategies and Relations with Governments in Advancing the Status of Women in the Asia - Pacific Region'. In this article, Ms. Karino David

argues for a comprehensive approach by NGOs to deal with the oppressive structures and institutions as well as ideas and culture that contribute to gender bias.

The second part of this issue of Legal Perspectives deals with the United Nations Convention on the Elimination of Discrimination Against Women (CEDAW). This Convention is the only international convention that deals comprehensively with the question of discrimination of women and steps that should be taken by governments to eliminate all forms of discrimination against women.

The salient points of the Convention are :

1. The Convention defines discrimination as 'any distinction, exclusion or restriction made on the basis of sex' which has the effect or purpose of nullifying the equality of men and women and human rights and fundamental freedoms of women. The Convention applies to all women irrespective of their marital status, age, nationality, ethnic, religion, caste or any other group they belong to.

2. The Convention is unique in calling for abolition of not only laws that discriminate women but also customs, regulations and practices which are discriminatory against women. Thus, the Convention deals with discrimination in both public and private spheres.

3. The governments that have ratified the Convention are not only required to change their laws and policies but also make efforts to change societal prejudices and practices that discriminate women based on the notion of inferiority of women.

The Indian government ratified the Convention in June 1993, and therefore has binding obligations under the Convention.

The Convention is increasingly being used by women's groups in various countries to assess the status of women and also to influence government's policy and action with regard to protecting the rights of women.

We hope that the materials on CEDAW published in this issue of Legal Perspectives would be used by action groups as a tool for education and for monitoring the status of women in areas they are working.

- LRSA Team

Women's Rights as Human Rights :

Toward A Re-Vision of Human Rights

Charlotte Bunch

Significant numbers of the world's population are routinely subject to torture, starvation, terrorism, humiliation, mutilation and even murder simply because they are female. Crimes such as these against any group other than women would be recognised as a civil and political emergency as well as gross violation of the victim's humanity. Yet, despite a clear record of deaths and demonstrable abuse, women's rights are not commonly classified as human rights. This is problematic both theoretically and practically, because it has grave consequences for the way society views and treats the fundamental issues of women's lives. This article questions why women's rights are viewed as distinct, looks at the policy implications of this schism, and discusses different approaches to changing it.

Women's human rights are violated in a variety of ways. Of course, women sometimes suffer abuses such as political repression in ways that are similar to abuses suffered by men. In these situations, female victims are often invisible because the dominant image of the political actor in our world is male. However, many violations of women's human rights are distinctly connected to being female - that is, women are discriminated against and abused on the basis of gender. Women also experience sexual abuse in situations where their other human rights are being violated, as political prisoners or members of persecuted ethnic groups for example. In this article I address those abuses in which gender is a primary or related factor because gender-related abuse has been most neglected and offers the greatest challenge to the field of human rights today.

The concept of human rights is one of the few moral visions subscribed to internationally. Although its scope is not universally agreed upon, it strikes deep chords of response among many. Promotion of human rights is a widely accepted goal and thus provides a useful framework for seeking redress of gender abuse. Further, it is one of the few concepts that speaks to the need for transnational activism and concern about the lives of people globally. The Universal Declaration of Human Rights¹ adopted in 1948 symbolizes this World vision and defines human rights broadly. While not much is said about women, Article 2 entitles all to "the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status". Eleanor Roosevelt and the Latin American women who fought for the inclusion of sex in the Declaration and for its passage, clearly intended that it would address the problems of women's subordination.²

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gender*

Since 1948, the World community has continuously debated varying interpretations of human rights in response to global developments. Little of this discussion, however, has addressed questions of gender, and only recently have significant challenges been made to a vision of human rights which excludes much of women's experiences. The concept of human rights, like all vibrant visions, is not static or the property of any one group, rather its meaning expands as people reconceive of their needs and hopes in relation to it. In this spirit, feminists redefine human rights abuses to include the degradation and violation of women.

The specific experiences of women must be added to traditional approaches to human rights in order to make women more visible and to transform the concept and practice of human rights in our culture so that it takes better account of women's lives.

In this article, I will explore both the importance and the difficulty of connecting women's rights to human rights, and then I will outline four basic approaches that have been used in the effort to make this connection.

I. BEYOND RHETORIC : POLITICAL IMPLICATIONS

Few governments exhibit more than token commitment to women's equality as a basic human right in domestic or foreign policy. No government determines its policies toward other countries on the basis of their treatment of women, even when some aid and trade decisions are said to be based on a country's human rights record. Among non-governmental organisations, women are rarely a priority, and Human Rights Day programs on 10 December seldom include discussion of issues like violence against women or reproductive rights. When it is suggested that governments and human rights organisations should respond to women's rights as concerns that deserve such attention, a

number of excuses are offered for why this cannot be done. The responses tend to follow one or more of these lines: (1) sex discrimination is too trivial, or not as important, or will come after larger issues of survival that require more serious attention; (2) abuse of women, while regrettable, is a cultural, private or individual issue and not a political matter requiring state action. (3) while appropriate for other action, women's rights are not human rights per se; or (4) when the abuse of women is recognised, it is called inevitable or so pervasive that consideration of it is futile or will overwhelm other human rights questions. It is important to challenge these responses.

The narrow definition of human rights, recognised by many in the West as solely a matter of state violation of civil and political liberties, impedes consideration of women's rights. In the United States the concept has been further limited by some who have used it as a weapon in the cold war almost exclusively to challenge human rights abuses perpetrated in communist countries. Even then, many abuses that affected women, such as forced pregnancy in Romania, were ignored.

Some important aspects of women's rights do fit into a civil liberties framework, but much of the abuse against women is part of a larger socio-economic web that entraps women making them vulnerable to abuses which cannot be delineated as exclusively political or solely caused by states. The inclusion of "second generation" or socio-economic human rights to food, shelter and work—which are clearly delineated as part of the Universal Declaration of Human Rights—is vital to addressing women's concerns fully. Further, the assumption that states are not responsible for most violations of women's rights ignores the fact that such abuses, although committed perhaps by private citizens, are often condoned or sanctioned by states. I will return to the question of state responsibility after

much of the abuse against women is part of a larger socio-economic web that entraps women making them vulnerable to abuses which cannot be delineated as exclusively political or solely caused by states

responding to other instances of resistance to women's rights as human rights.

The most insidious myth about women's rights is that they are trivial or secondary to the concerns of life and death. Nothing could be farther from the truth; sexism kills. There is increasing documentation of the many ways in which being female is life-threatening. The following are a few examples;

- *Before birth:* Amniocentesis is used for sex selection leading to the abortion of more female fetuses at rates as high as 99 percent in Bombay, India; in China and India, the two most populous nations, more males are born than

females even though natural birth ratios would produce more females.³

- *During childhood:* The World Health Organisation reports that in many countries, girls are fed less, breast fed for shorter periods of time, taken to doctors less frequently, and die or are physically and mentally maimed by malnutrition at higher rates than boys.⁴

- *In adulthood:* The denial of women's rights to control their bodies in reproduction threatens women's lives, especially where this is combined with poverty and poor health services. In Latin America, complications from illegal abortions are the leading cause of death for women between the ages of fifteen and thirty-nine.⁵

Sex discrimination kills women daily. When combined with race, class and other forms of oppression, it constitutes a deadly denial of women's rights to life and liberty on a large scale throughout the world. The most pervasive violation of females is violence against women in all its manifestations, from wife battery, incest, and rape, to dowry deaths,⁶ genital mutilation,⁷ and female sexual slavery. These abuses occur in every country and are found in the home and in the workplace, on

streets, campuses, and in prisons and refugee camps. They cross class, race, age, and national lines, and at the same time, the forms this violence takes often reinforce other oppressions such as racism, "able-bodyism", and imperialism. Case in point in order to feed their families, poor women in brothels around U.S. military bases in places like the Philippines bear the burden of sexual, racial and national imperialism in repeated and often brutal violation of their bodies.

Even a short review of random statistics reveals that the extent of violence against women globally is staggering.

- In the United States, battery is the leading cause of injury to adult women, and a rape is committed every six minutes.⁸
- In Peru 70 percent of all crimes reported to police involve women who are beaten by their partners; and in Lima (a city of seven million people), 168,970 rapes were reported in 1987 alone.⁹
- In India, eight out of ten wives are victims of violence, either domestic battery, dowry-related abuse, or among the least fortunate, murder.¹⁰
- In France, a very high percentage of the victims of violence are women; 51 percent at the hands of a spouse or lover. Similar statistics from places as diverse as Bangladesh, Canada, Kenya and Thailand demonstrate that more than 50 percent of female homicides were committed by family members.¹¹

Where recorded, domestic battery figures range from 40 percent to 80 percent of women beaten, usually repeatedly, indicating that the home is the most dangerous place for women and frequently the site of cruelty and torture. As the Carol Stuart murder in Boston in 1989 demonstrated, sexist and racist attitudes in the United States often cover up the real threat to women; a woman is

murdered in Massachusetts by a husband or lover every 22 days.¹²

Such numbers do not reflect the full extent of the problem of violence against women, much of which remains hidden. Yet rather than receiving recognition as a major World conflict, this violence is accepted as normal or even dismissed as an individual or cultural matter. Georgina Ashworth notes that:

The greatest restriction of liberty, dignity and movement, and at the same time, direct violation of the person is the threat and realisation of violence.... However violence against the female sex, on a scale which far exceeds the list of Amnesty International victims, is tolerated publicly, indeed some acts of violation are not crimes in law, others are legitimized in custom or court opinion, and most are blamed on the victims themselves.

Violence against women is a touchstone that illustrates the limited concept of human rights and highlights the political nature of the abuse of women. As Lori Heise states: "this is not random violence.... the risk factor is being female." Victims are chosen because of their gender. The message is domination: stay in your place or be afraid. Contrary to the argument that such violence is only personal or cultural, it is profoundly political. It results from the structural relationships of power, domination and privilege between men and women in society. Violence against women is central to maintaining those political relations at home, at work, and in all public spheres.

Failure to see the oppression of women as political also results in the exclusion of sex discrimination and violence against women from the human rights agenda. Female subordination runs so deep that it is still viewed as inevitable or natural, rather than seen as a politically constructed reality maintained by patriarchal interests, ideology, and institutions. But I do not believe that male

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violation of women is inevitable or natural. Such a belief requires a narrow and pessimistic view of men. If violence and domination are understood as a politically constructed reality, it is possible to imagine reconstructing that system and building more just interactions between the sexes.

If violence and domination are understood as a politically constructed reality, it is possible to imagine reconstructing that system and building more just interactions between the sexes.

The physical territory of this political struggle over what constitutes women's human rights is women's bodies. The importance of control over women can be seen in the intensity of resistance to laws and social changes that put control of women's bodies in women's hands: reproductive rights, freedom of sexuality whether heterosexual or lesbian, laws that criminalize rape in marriage, etc. Denial of reproductive rights and homophobia are also political means of maintaining control over women and perpetuating sex roles and power which have human rights implications. The physical abuse of women is a reminder of this territorial domination and is sometimes accompanied by other forms of human rights abuse such as slavery (forced prostitution), sexual terrorism (rape), imprisonment (Confinement to the home) or torture (systematic battery). Some cases are extreme, such as the women in Thailand who died in a brothel fire because they were chained to their beds. Most situations are more ordinary like denying women decent education or jobs which leaves them prey to abusive marriages, exploitative work, and prostitution.

This raises once again the question of the state's responsibility for protecting women's human

rights. Feminists have shown how the distinction between private and public abuse is a dichotomy often used to justify female subordination in the home. Governments regulate many matters in the family and individual spheres. For example, human rights activists pressure states to prevent slavery or racial discrimination and segregation even when these are conducted by non-governmental forces in private or proclaimed as cultural traditions as they have been in both the southern United States and in South Africa. The real questions are: (1) who decides what are legitimate human rights and, (2) when should the state become involved and for what purposes.

Riane Eisler argues that:

the issue is what types of private acts are and are not protected by the right to privacy and/or the principle of family autonomy. Even more specifically, the issue is whether violations of human rights within the family such as genital mutilation, wife beating, and other forms of violence designed to maintain patriarchal control should be within the purview of human rights theory and action.... [T]he underlying problem for human rights theory as for most other fields of theory, is that the yardstick that has been developed for defining and measuring human rights has been based on the male as norm.¹³

Feminists have shown how the distinction between private and public abuse is a dichotomy often used to justify female subordination in the home

The human rights community must move beyond its male defined norms in order to respond to the brutal and systematic violation of women globally. This does not mean that every human rights group must alter the focus of its work. However, it does require examining patriarchal

biases and acknowledging the rights of women as human rights. Governments must seek to end the politically and culturally constructed war on women rather than continue to perpetuate it. Every state has the responsibility to intervene in the abuse of women's rights within its borders and to end its collusion with the forces that perpetrate such violations in other countries.

The human rights community must move beyond its male defined norms in order to respond to the brutal and systematic violation of women globally

II. TOWARD ACTION : PRACTICAL APPROACHES

The classification of human rights is more than just a semantics problem because it has practical policy consequences. Human Rights are still considered to be more important than women's rights. The distinction perpetuates the idea that the rights of women are of a lesser order than the "rights of man", and as Eisler describes it, "serves to justify practices that do not accord women full and equal status."¹⁶ In the United Nations, the Human Rights Commission has more power to hear and investigate cases than the Commission on the Status of Women, more staff and budget and better mechanisms for implementing its findings. Thus it makes a difference in what can be done if a case is deemed a violation of women's rights and not of human rights.¹⁷

The determination of refugee status illustrates how the definition of human rights affects people's lives. The Dutch Refugee Association in its pioneering efforts to convince nations to recognise sexual persecution and violence against women as justifications for granting refugee status, found it at some European governments would take sexual

persecution into account as an aspect of other forms of political repression, but none would make it the grounds for refugee status per se.¹⁸ The implications of such a distinction are clear when examining a situation like that of some Bangladeshi women, who having been raped during the Pakistan-Bangladesh war, subsequently faced death at the hands of male relatives to preserve "family honour". Western powers professed outrage but did not offer asylum to these victims of human rights abuse.

I have observed four basic approaches to linking women's rights to human rights. These approaches are presented separately here in order to identify each more clearly. In practice, these approaches often overlap, and while each raises questions about the others. I see them as complementary. These approaches can be applied to many issues, but I will illustrate them primarily in terms of how they address violence against women in order to show the implications of their differences on a concrete issue.

1. Women's Rights as Political and Civil Rights

Taking women's specific needs into consideration as part of the already recognised "first generation" human rights of political and civil liberties is the first approach. This involves both enhancing the visibility of women who suffer general human rights violations as well as calling attention to particular abuses women encounter because they are female. Thus issues of violence against women are raised when they connect to other forms of violation such as the sexual torture of women political prisoners in South America.¹⁹ Groups like the Women's Task Force of Amnesty International have taken this approach in pushing for Amnesty to launch a campaign on behalf of women political prisoners which would address the sexual abuse and rape of women in custody, their lack of maternal care in detention, and the resulting human rights abuse of their children.

Documenting the problems of women refugees and developing responsive policies are other illustrations of this approach. Women and children make up more than 80 percent of those in refugee

camps, yet few refugee policies are specifically shaped to meet the needs of these vulnerable populations who face considerable sexual abuse. For example, in one camp where men were allocated the community's rations, some gave food to women and their children in exchange for sex. Revealing this abuse led to new policies that allocated food directly to the women.²⁰

The political and civil rights approach is a useful starting point for many human rights groups; by considering women's experiences, these groups can expand their efforts in areas where they are already working. This approach also raises contradictions that reveal the limits of a narrow civil liberties view. One contradiction is to define rape as a human rights abuse only when it occurs in state custody but not on the streets or in the home. Another is to say that a violation of the right to free speech occurs when someone is jailed for defending gay rights, but not when someone is jailed or even tortured and killed for homosexuality. Thus while this approach of adding women and stirring them into existing first generation human rights categories is useful, it is not enough by itself.

2. Women's Rights as Socioeconomic Rights

The second approach includes the particular plight of women with regard to the so-called "second generation" human rights such as rights to food, shelter, health care and employment. This is an approach favoured by those who see the dominant Western human rights tradition and international law as too individualistic and identify women's oppression as primarily economic.

This tendency has its origins among socialists and labour activists who have long argued that political human rights are meaningless to many without economic rights as well. It focuses on the primacy of the need to end women's economic subordination as the key to other issues including women's vulnerability to violence. This particular focus has led to work on issues like women's right to organise as workers, and opposition to violence in the workplace, especially in situations like the free trade zones which have targeted women as cheap, un-organised labour. Another focus of this

approach has been highlighting the feminization of poverty, or what might better be called the increasing impoverishment of females. Poverty has not become strictly female, but females now comprise a higher percentage of the poor.

Looking at women's rights in the context of socioeconomic development is another example of this approach. Third World peoples have called for an understanding of socioeconomic development as a human rights issue.²¹ Within this demand, some have sought to integrate women into development and have examined women's specific needs in relation to areas like land ownership or access to credit. Among those working on women in development, there is growing interest in violence against women as both a health and development issue. If violence is seen as having negative consequences for social productivity, it may get more attention. This type of narrow economic measure, however, should not determine whether such violence is seen as a human rights concern. Violence as a development issue is linked to the need to understand development not just as an economic issue but also as a question of empowerment and human growth.

Violence as a development issue is linked to the need to understand development not just as an economic issue but also as a question of empowerment and human growth.

One of the limitations of this second approach has been its tendency to reduce women's needs to the economic sphere which implies that women's rights will follow automatically with third world development, or socialism. This has not proven to be the case. Many working from this approach are no longer trying to add women into either the Western capitalist or socialist development models, but rather seek a transformative development

process that links women's political, economic and cultural empowerment.

3. Women's Rights and the Law

The creation of new legal mechanisms to counter sex discrimination characterises the third approach to women's rights as human rights. These efforts seek to make existing legal and political institutions-work for women and to expand the state's responsibility for the violation of women's human rights. National and local laws which address sex discrimination and violence against women are examples of this approach. These measures allow women to fight for their rights within the legal system. The primary international illustration is the Convention on the Elimination of all Forms of Discrimination Against Women.²²

*most women experience abuse
on the grounds of sex, race,
class, nation, age, sexual
preference, politics, etc. as inter-
related and little benefit comes
from separating them as com-
peting claims*

The Convention has been described as "essentially an international bill of rights for women and a framework for women's participation in the development process...[which] spells out internationally accepted principles and standards for achieving equality between women and men"²³. Adopted by the UN General Assembly in 1979, the Convention has been ratified or acceded to by 104 countries as of January, 1990. In theory these countries are obligated to pursue policies in accordance with it and to report on their compliance to the Committee on the Elimination of Discrimination Against Women (CEDAW).

While the Convention addresses many issues of sex discrimination, one of its shortcomings is

failure to directly address the question of violence against women. CEDAW passed a resolution at its eighth Session in Vienna in 1989 expressing concern that this issue be on its agenda and instructing states to include in their periodic reports information about statistics, legislation and support services in this area.²⁴ The Commonwealth Secretariat in its manual on the reporting process for the Convention also interprets the issue of violence against women as "clearly fundamental to the spirit of the Convention", especially in Article 5 which calls for the modification of social and cultural patterns, sex roles and stereotyping, that are based on the idea of the inferiority or the superiority of the either sex.²⁵

The Convention outlines a clear human rights agenda for women which, if accepted by governments, would mark an enormous step forward. It also carries the limitations of all such international documents in that there is little power to demand its implementation. Within the United Nations, it is not generally regarded as a convention with teeth, as illustrated by the difficulty that CEDAW has had in getting countries to report on compliance with its provisions. Further, it is still treated by governments and most non-governmental organisations as a document dealing with women's (read "secondary") rights, not human rights. Nevertheless, it is a useful statement of principles endorsed by the United Nations around which women can organise to achieve legal and political change in their regions.

4. Feminist Transformation of Human Rights

Transforming the human rights concept from a feminist perspective, so that it will take greater account of women's lives, is the fourth approach. This approach raises the question of how women's rights relate to human rights by first looking at the violations of women's lives and asking how the human rights concept can be changed to be more responsive to women. For example, the GABRIELA women's coalition in the Philippines simply stated that "Women's Rights are Human Rights" in launching a campaign last year. As Ninotchka Rosca explained, coalition members saw

that "human rights are not reducible to a question of legal and due process...In the case of women, human rights are affected by the entire society's traditional perception of what is proper or not proper for women".²⁶ Similarly a panel at the 1990 International Women's Rights Action Watch conference asserted that "Violence Against Women is a Human Rights Issue". While work in the three previous approaches is often done from a feminist perspective, this last view is the most distinctly feminist with its Woman-centred stance and its refusal to wait for permission from some authority to determine what is or is not a human rights issue.

This transformative approach can be taken toward any issue, but those working from this approach have tended to focus most on abuses that arise specifically out of gender, such as reproductive rights, female sexual slavery, violence against women, and "family crimes" like forced marriage, compulsory heterosexuality, and female mutilation. These are also the issues most often dismissed as not really human rights questions. This is therefore the most hotly contested area and requires that barriers be broken down between public and private, state and non-governmental responsibilities.

Those working to transform the human rights vision from this perspective can draw on the work of others who have expanded the understanding of human rights previously. For example, two decades ago there was no concept of "disappearances" as a human rights abuse. However, the women of the Plaza de Mayo in Argentina did not wait for an official declaration but stood up to demand state accountability for these crimes. In so doing, they helped to create a context of expanding the concept of responsibility for deaths at the hands of paramilitary or right-wing death squads which, even if not carried out, by the state, were allowed to happen. Another example in the United States is the developing concept that civil rights violations include "hate crimes," violence that is racially motivated or directed against homosexuals, Jews, or other minority groups. Many accept that states have an obligation to work to prevent such human

rights abuses, and getting violence against women seen as a hate crime is being pursued by some.

*Women want food and liberty
and the possibility of living lives
of dignity, free from domination
and violence*

The practical applications of transforming the human rights concept from feminist perspectives need to be explored further. The danger in pursuing only this approach is the tendency to become isolated from and competitive with other human rights groups because they have been so reluctant to address gender violence and discrimination. Yet, most women experience abuse on the grounds of sex, race, class, nation, age, sexual preference, politics, etc. as interrelated and little benefit comes from separating them as competing claims. The human rights community need not abandon other issues but should incorporate gender perspectives into them and see how these expand the terms of their work. By recognising issues like violence against women as human rights concerns, human rights scholars and activists do not have to take these up as their primary tasks. However, they do have to stop gate-keeping and guarding their prerogative to determine what is considered a "legitimate" human rights issue.

As mentioned before, these four approaches are overlapping and many strategies for change involve elements of more than one. All of these approaches contain aspects of what is necessary to achieve women's rights. At a time when dualist ways of thinking and views of competing economic systems are in question, the creative task is to look for ways to connect these approaches and to see how we can go beyond exclusive views of what people need in their lives in the words of an early feminist group, we need bread and roses too. Women want food and liberty and the possibility of living lives of dignity, free from domination and

violence. In this struggle, the recognition of women's rights as human rights can play an important role.

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Source: Taken from "Gender violence: A development and Human Rights Issue, published by Center for Women's Global Leadership.

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Legal Perspectives



Violence against women: an obstacle to development

Roxanna carrillo

Human development is a process of enlarging people's choices. The most critical of these wide-ranging choices are to live long and healthy life, to be educated and to have access to resources needed for a decent standard of living. Additional choices include political freedom, guaranteed human rights and personal self-respect. Development enables people to have these choices.

UNDP, Human Development Report 1990.

The United Nations Decade for Women helped bring attention to the critical importance of women's activities to economic and social development. However, after fifteen years of efforts to integrate women into development, women are still only marginal beneficiaries of development programs and policy goals. Various studies show that women remain in a disadvantaged position in employment, education, health and government. There is no major field of activity and no country in which women have obtained equality with men (Sivard, 1985:5)

In spite of the slow process of change, women working in the international development community have been successful in identifying issues critical for women's

development that had not traditionally been understood as central to the development process. One such area is gender violence. Violence against women has previously been seen, if at all, as a private matter, a cultural and family issue, or at best, pertinent to social welfare

policies. Among those concerned with the general position of women, gender violence has been addressed within the framework of promoting peace, and increasingly, as part of the human rights agenda. These approaches underscore the multiple aspects of such violence but they in no way exhaust our understanding of the problem. There are still large gaps in our knowledge concerning the dimensions and effects of gender violence on the development process itself. Lack of statistical data is one of several problems in documenting the issue. We have reached a point where it is critical to understand how violence as a form of control affects women's participation in the development process.

The emergence of violence as a crucial issue for Third World women's development has occurred organically, arising from grassroots women's endeavors, and has not been dictated by outside authorities or international agencies. For example,

women are marginalised in society and forced out of the decision making processes which shape and determine the development of their communities

UNIFEM funded projects from various regions of the World increasingly identify violence as a priority concern, and/or as a problem that limits women's participation in or capacity to benefit from development projects. Women have taken leadership in making violence against women visible, and in addressing its causes, manifestations, and remedies. From the Uganda Association of Women Lawyers, to the Asia and Pacific Women, Law and Development Network, to the Trinidad Rape Crisis Centre, and the Fiji Women's Rights Movement, women's leadership in the developing world is struggling to include issues of violence against women on national agendas, and to demonstrate the ways in which violence blocks development. They confirm that gender violence, whether in its most brutal or

more subtle forms, is a constant in women's lives. In Latin America, ISIS International has identified 156 women's projects dealing with various aspects of violence against women (ISIS:1990). In this region women's movements have institutionalised November 25 as a day to denounce and call for action against

female focused violence. In other parts of the world similar initiatives have also been taken.

In a 1988 global survey of women's groups in developing countries, MATCH International, a Canadian NGO devoted to issues of women and development for two decades, found that violence against women was the most frequent concern raised. Women's groups identified the impact of such violence on development in concrete terms, leading MATCH to conclude:

Violent acts against women, the world over, attack their dignity as human beings and leave them vulnerable and fearful. Conditioned to undervalue their skills and abilities and paralysed by real fears of violence and retribution, women are marginalised in society and forced out of the decision making processes which shape and determine the development of their com-

munities. Violence against women is not limited to any one country. The acts range from battering, incest, assault, and rape worldwide to female circumcision in Africa, dowry deaths in India, and militarization in the Philippines. Along this continuum one must also include the limited employment opportunities for women, the lack of access to education, women's social isolation and the sexual harassment that women experience daily. The manifestations of violence against women simply alter their forms according to the social, economic and historical realities in which they occur (Match News, 1990).

MATCH has since launched a program on violence against women in relation to development as one of its top priorities.

The extent of the violence

Violence against women is not a problem that affects only the poor or only women in the Third World. Yet, even among industrialised countries, few have embarked on empirical studies that provide a solid basis from which to map the true dimensions of the problem. In the developing world, with very few exceptions like Papua New Guinea, statistics are even more scant. When available, statistics powerfully document and make visible the pervasiveness and extent of violence against women globally.

Official statistics and survey data in the United States, for example, dramatically convey the endemic nature of gender violence. A rape occurs somewhere in the United States every 6 minutes. Domestic battery is the single most significant cause of injury to women, more than car accidents, rapes and muggings combined. Yet a 1985 FBI report estimates that wife assault is under-reported by a factor of at least ten to one. Researchers produce chilling numbers: Roy indicates that violence occurs at least once in two-thirds of all marriages; Strauss, Gelles, and Steinmetz reveal that one in eight couples admitted there had been an act of violence

between them which could cause serious injury; in a study at a Connecticut hospital, Stark and Flichtcraft report that battery accounted for 25 percent of suicide attempts by women. Three different studies show that significant numbers of women are battered even when pregnant. Police report that between 40 and 60 percent of the calls they receive, especially on the night shift, are domestic disputes.

A study done in Kansas City showed that the police had already been called at least five times in the two years preceding fifty percent of all homicides by a spouse. In Cleveland, Ohio, during a nine-month period, police received approximately 15,000 domestic violence calls, but reports were filed for only 700 of them and arrests were made in just 460 cases. (According to sources from the National Center on Women and Family Law)

gender specific violence cuts across national boundaries, ideologies, classes, races and ethnic groups

Statistics from other industrialised countries are equally disconcerting. Reports from France indicate that 95 percent of all victims of violence are women, 51 percent of these at the hands of their husbands.

In Denmark, 25 percent of women cite violence as the reason for divorce, and a 1984 study of urban victimization in seven major Canadian cities found that 90 percent of victims were women. One in four women in Canada can expect to be sexually assaulted at some point in their lives, one half of these before the age of seventeen (Macleod, 1990:12)

While there are fewer studies in the Third World, the pattern of gender violence there bears a remarkable similarity to that of advanced industrialised societies. Its manifestations may be culturally specific, but gender specific violence cuts across national boundaries, ideologies, classes, races and ethnic groups. A Mexican NGO estimates that domestic violence is present in at least 70 percent of Mexican families, but most cases go unreported. The Mexican Federation of Women Trade Unions reports that 95 percent of women workers are

victims of sexual harassment, and complains that the impunity of these crimes limits women's participation in the work force.

The Servicio Nacional de la Mujer in Chile has chosen the prevention of intra-family violence as one of their priorities: according to a survey in Santiago, 80 percent of women acknowledged being victims of violence in their homes. A national survey on domestic violence undertaken by the Papua New Guinea Law Reform Commission showed that in some areas of the country as many as 67 percent of wives had experienced marital violence and that 61 percent of people killed in 1981 were women, the majority by their spouses. Over two thirds of Korean women are beaten regularly by their husbands, while in Nicaragua 44 percent of men admit to having beaten their wives or girlfriends regularly; and a Thai report found at least 50 percent of all married women beaten regularly.

In a study of child prostitution in Cochabamba, Bolivia, 79 percent of the girls said they became prostitutes because of economic need when they ran away from violent homes where they were victims of incest and rape by male relatives. Another study published by the Indian government shows that crimes against women are "an increasing trend in the last decade," while the rate of conviction has declined. Meanwhile, the female suicide rate in that country doubled during the period from 1987 to 1988. A newspaper survey in Pakistan revealed that 99 percent of housewives and 77 percent of working women were beaten by their husbands and listed the following types of violence committed against women; murder over land disputes, blinded by husbands frustrated on some issue, kicked to death, burnt in anger, abducted, sold, sexually harassed, raped (AWRAN Report, 1985). Other reports cited in a United Nations document also found a high incidence of family violence in countries as different as Bangladesh,

Colombia, Kenya, Kuwait, Nigeria, Vanuatu, and Uganda (UN, 1989:20).

Violence against women not only maims and debilitates, Femicide kills women on a large scale from pre-birth throughout life. Amartya Sen has pointed out the deadly cost of social and economic inequalities between men and women by analysing the sex ratio (of females to males) in the Less Developed Countries (LDCs). Whereas there are 106 women per 100 men in Europe and North America, there are only 97 women per 100 men in the LDCs as a whole. In some areas, noticeably Asia, and especially India and China, when one applies the sex ratio of Africa (1.02), which comes closer to that of Europe and North America (1.06), the equation yields chilling results. Given the num-

ber of men in those two countries, there should be about 30 million more women in India, and 38 million more in China. These missing females disappeared through gender violence ranging from female foeticide to selective malnourishment and starvation of girls, neglect of health problems, dowry

deaths and various other forms of violence. Sen reminds us that "since mortality and survival are not independent of care and neglect, and are influenced by social action and public policy," development strategies clearly must take more account of women's needs in this area (Sen, 1990:124).

Violence against women at International Fora

Within the context of the United Nations Decade for Women, many have begun to recognise the problem of violence against women. At all three World Conferences on Women, Mexico City (1975), Copenhagen (1980), and Nairobi (1985), and at the parallel non-governmental fora, women's advocates raised the issue of gender violence and demanded special attention to the constraints it places on women's full participation in society. The official documents produced at these events are

These missing females disappeared through gender violence ranging from female foeticide to selective malnourishment and starvation of girls, neglect of health problems, dowry deaths and various other forms of violence

powerful indictments of the discrimination that women face in all countries, regions and cultures, and provide a useful foundation for a different understanding of sex-related violence. They establish the concerns of the international community, and acknowledge the responsibility of governments and all members of society for its eradication. They constitute the building blocks for framing new strategies and policies to address these issues.

One of the most significant UN documents addressing gender violence in relation to development goals is the "Forward Looking Strategies" paper produced at the 1985 Nairobi World Conference to Review and Appraise the Achievements of the United Nations Decade for Women: Equality, Development and Peace. It includes resolution 258 which calls for the elaboration of preventive policies and the institutionalisation of assistance to women victims of the various forms of violence experienced in everyday life in all societies. It acknowledges that "women are beaten, mutilated, burned, sexually abused and raped," and that such violence is "a major obstacle to the achievement of the objectives of the Decade and should be given special attention." Other sections of this document (e.g. 76,245,271,288) insist on special training for law enforcement officials who deal with women victims of violent crimes; urge legislation to end the degradation of women through sex related crimes; stress the priority of promoting female human rights, specially in relation to issues of violence against women; insist on favouring a preventive approach that include institutionlised economic and other forms of assistance, and suggest the establishment of national agencies to deal with the question of domestic violence. In addition to assiting victims of gender violence in the family and in society generally, paragraph 288 demands that:

Governments should undertake to increase public awareness of violence against women

Where domestic violence keeps a woman from participating in a development project, or fear of sexual assault prevents her from taking a job, or force is used to deprive her of earnings, development does not occur

as a social problem, establish policies and legislative measures to ascertain its causes and prevent and eliminate such violence, in particular by suppressing degrading images and representations of women in society, and finally encourage the development of educational and re-educational measures for offenders (ibid).

Other UN divisions, like the thirty-second session of the Economic and Social Council Commission on the Status of Women, also address the issue; the report of the Secretary General stated that violence against women, defined as "physical, sexual, emotional, and economic abuse within the family, rape and sexual assault; sexual harassment and trafficking in women; involuntary prostitution; and pornography" all share a common denominator - "the use of coercion to make women do things against their will." (n.p)

Human Development and Violence:

A Contradiction

When speaking of development, this article relies on the approach recently adopted by the United Nations Development Programme (UNDP) known as the Human Development Report (HDR), published in 1990. Reassessing the different approaches that marked the three previous United Nations Development Decades, this document questions the ability of statistical indicators like growth and national income to measure development adequately. Rather, it suggests the need to focus on other aspects of development that provide more accurate and realistic indicators of human development; nutrition and health services, access to knowledge, secure livelihoods, decent working conditions, security against crime and physical violence, satisfying leisure time, and participation in the economic, cultural, and political activities of their communities. From this perspective, the goal of development is to create an environment which enables people to enjoy long, healthy, and creative lives.

Despite three decades of significant progress towards human development in the Third World, particularly in relation to life expectancy, education, and health, one has to examine cautiously the results from a cross-cultural gender perspective. Nowhere do females enjoy the same standards as males, and in some areas gaps have widened so considerably that one must question whether development attempts are intrinsically gendered to the disadvantage of females. As the HDR states:

In most societies, women fare less well than men. As children they have less access to education and sometimes to food and health care. As adults they receive less education and training, work longer hours for lower incomes, and have few property rights or none (UN 1990:31)

Discrimination against females extends to every aspects of life. If women are fed less, have poorer health and less education than males, and their contribution to society's production and reproduction is underestimated, it is no wonder that wide gender gaps between males

and females persist in human development indicators. Looking at development from a human-centered gender perspective requires that development studies focus on women as a demographic category and that development indicators be recorded according to gender. In order for women to benefit from the development process, a fundamental emphasis must be placed on increasing women's self confidence as well as their ability to participate in all aspects of society. Violence against women is in direct contradiction to securing human-centered development goals. It disrupts women's lives and denies them options. It erodes women's confidence and sense of self-esteem at every level, physically and psychologically. It destroys women's health, denies their human rights, and hinders their full participation in society. Where domestic violence keeps a woman from

Women are socialised to associate their self-worth with the satisfaction of the needs and desires of others, and thus, are encouraged to blame themselves as inadequate or bad if men beat them. This socialisation process is reinforced by cultures

participating in a development project, or fear of sexual assault prevents her from taking a job, or force is used to deprive her of earnings, development does not occur.

Women experience violence as a form of control that limits their ability to pursue options in almost every area of life from the home to the schools, workplaces, and most public spaces. Violence is used to control women's labour in both productive and reproductive capacities. For example, case studies of victims of domestic violence in Peru and of garment workers in the Mexican maquilas showed men beating their wives frequently to demand the income women had earned (Vasquez and Tamayo, 1989; Bruce, 1990). In-

Indonesian female workers returning to their villages complain of their helplessness in the face of harassment and sexual abuse; quite often their wages are withheld for months, preventing possibility of escape or resistance. In the Philippines, women workers in export oriented industries claim that male managers give female

employees the choice of "lay down or lay off" (AWRAN Report, 1985).

Female Dependency

The socially constructed dependency of women on men is key to understanding women's vulnerability to violence. This dependency is frequently economic, and results from various layers of sexist discrimination. First, much of women's work is unpaid labour at home and in the fields which is not valued by society, nor calculated as part of the Gross National Product - the productive work of a nation. Second, even in paid jobs, women work longer hours for lower pay, with fewer benefits and less security than men.

Female dependency extends to other areas as well, psychological, social and cultural. Women are trained to believe that their value is attached to

the men in their lives - fathers, brothers, husbands, and sons. They are often socially ostracized if they displease or disobey these men. Women are socialised to associate their self-worth with the satisfaction of the needs and desires of others, and thus, are encouraged to blame themselves as inadequate or bad if men beat them. This socialisation process is reinforced by cultures where a woman is constantly diminished, her sexuality commodified, her work and characteristics devalued, her identity shaped by an environment that reduces her to her most biological functions. Yet women are still blamed for "causing" or deserving the abuse of men toward them.

Women's socio-economic and psychological dependency makes it difficult for them to leave situations of domestic violence or sexual harassment. Often in rural settings it is physically impossible; women literally have no place to go or the means to get away, and there are no services available to them. A Commonwealth Secretariat report on domestic violence cites the opinion of experts that a shelter or other safe refuge alternative is only possible in a city of at least 10,000 inhabitants.

But even in large urban settings, where it may be easier for women to leave abusive relationships, there is often nowhere to go as illustrated by the links between domestic violence and homelessness. A shelter for homeless women in Boston reports that about ninety percent of its occupants are victims of domestic violence (*The New York Times*, August 26, 1990), and New York City shelter workers note a similar trend. Australian sociologist, Robert Connell (1987:11) sees the lack of alternative housing as one of the reasons women stay in, or return to, violent marriages. Further, violence itself makes women become even more dependent. Studies from several countries find that the escalation of violence undermines women's self-esteem and their capacity to take action diminishes.

Effects on family and children

Violence against women also affects the development and well being of children and families. A recent study on children of battered women in Canada reports post-traumatic stress, clinical dysfunction, and behavioural and emotional

disorders in children from violent homes (Jaffe, Wolfe, and Wilson, 1990). Some argue that children's socialisation into accepting or committing violence starts at home when they witness their father beating the mother and sometimes abusing them as well.

It seems increasingly clear that the best way to reduce infant mortality is through the education of women (White House Task Force on Infant Mortality Report, cited in *The New York Times*, August 12, 1990; Buvinic and Yudelman, 1989). The UNDP Human Development Report underlines the high social dividend that comes with female literacy, as demonstrated by lower infant mortality rates, better family nutrition, reduced fertility and lower population growth. Other studies show a connection between women's self-confidence and child mortality. Since the health and psychological well-being of children is connected to the future development of a country, the gender violence implicit in disproportionate female illiteracy is clearly contrary to development. Improving women's self-confidence and education is therefore a crucial investment that may have long lasting effects on children and the future of a nation.

Gender violence also destroys families. The Law Reform Commission of Papua New Guinea study that husbands, through their violence, were themselves negatively affected in the long run by losing the very basis of their patriarchal control: he may be injured or killed if his wife acts to defend herself, he fails to earn the love and respect of his wife and children, and he frequently loses his family altogether. In Papua New Guinea, as in many countries, battery is one of the main reasons women give for filing for divorce.

Costs to Society

Violence against women deprives society of the full participation of women in all aspects of development. As Lori Heise states:

Female focused violence undermines widely held goals for economic and social development in the Third World. The development community has come to realise that problems such as high fertility, deforestation and hunger

cannot be solved without women's full participation. Yet women cannot lend their labour or creative ideas fully when they are burdened with the physical and psychological of violence.(Helse, 1989)

Many work hours are lost as a result of violence, not to speak of the costs of providing services to victims. In this we should take into account the work time lost by the victim herself, plus the work time of police and others in the legal, medical, mental health and social services. It is almost impossible to quantify the total costs of the problem given the limited information available on the extent of such violence. Among the few estimates made, the Australian Committee on Violence calculated that the cost of refuge accommodation for victims of domestic violence for the year 1986-87 was \$27.6 million, and in the province of Queensland alone, serious domestic assault cases cost about \$108 million Australian dollars a year (Australian Institute of Criminology, 1990:15). However, the greatest cost is one of human misery:

Beyond such calculate costs lie the costs in human suffering, which are vast. The most significant long term effect and ultimate cost of wife battery, however, is the perpetration of the societal structure, confirmed by marital violence, that keeps women inferior and subordinate to men politically, economically and socially.(UN, 1989:24)

Violence in an environment where public safety measures are inadequate and public transport unprotected, severely limits women's integration into the paid work force. Addressing this problem, a coalition of women's organisations in Bombay demanded the establishment of "ladies only carriages" in mass public transit after serious incidents of sexual harassment of women commuting to and from work. The Toronto Metro Action Committee on Public Violence Against Women and Children (METRAC) has raised awareness and affected public policy regarding the connections between transportation, safety and women's participation in the work force. Based on an extensive survey of women's concerns about urban planning and design, they lobbied city government to improve lighting, signs,

mass transit, and suggested new criteria and guidelines for all buildings in the city. These initiatives are a reminder of how women's freedom in public spaces is often restrained by the way it is designed. Another example is the lack of adequate sanitation, water and garbage facilities. Frequently, women have to go to desolate places to satisfy basic sanitary needs-a very common experience for women living both in shanty towns and in rural areas-in such situations, they are especially vulnerable to violent crimes.

Violence against women is often a direct obstacle to women's participation in development projects. For example, in a Mexico project funded by the United Nations Development Fund for Women, UNIFEM, instances of wife battering increased with women's sense of empowerment through their participation in it. The project found that men perceived the growing empowerment of women as a threat to their control, and the beatings could be explained as an attempt to reverse this process of empowerment the women experienced in order to drive them away from the project. Similarly, a revolving fund project of the Working Women's Forum in Madras almost collapsed when the most articulate and energetic participants stopped participating because they experienced increased incidents of domestic violence after they had joined. Faced with the same problems, the Association for the Development and integration of Women (ADIM) in Lima succeeded in its work by initiating programs that combined income generating schemes with legal aid to battered wives and women abandoned by their partners.(Buvinic and Yudelman, 1989:44)

Even when women continue their involvement in development projects, concern about the problems caused by violence often diverts their energy from pursuing other goals. Sometimes women miss meetings because of fear of beatings, physical disability due to battery, or because they are taking care of another battered woman or her children. Some women decline public visibility due to shame over their injuries since society's "blame the victim" attitude does not create an environment sympathetic to them. In groups that discuss these

issues; time spent dealing with violence and the problems accompanying it is time away from other project goals.

Another long term effect of gender violence and the cultural atmosphere that demeans women by condoning such violence, is that it denies developing countries the full talents of their female citizens. Family control and violence encourage some of the best educated women to leave their countries, contributing to the brain drain in the Third World, and the loss of highly skilled women who could contribute to the development process. Women who stay often must comply with the subordinate role that society assigns them and may be reluctant to be promoted to more visible positions for fear of upsetting their husbands. For example, with regard to Papua New Guinea:

Threats of violence control women's minds as much as do acts of violence, making women act as their own jailers. This means that a woman makes her choices not on what she wants to do or believes is best, but on what she thinks her husband will allow her to do (Bradley, 1990:5)

HEALTH, AIDS AND VIOLENCE

Health is usually recognised as an important development issue. One of the clearest facts about gender violence is that it is detrimental to women's physical and mental health, including women's very survival. A 1989 report by the Surgeon General of the United States. C. Everett Koop, affirms that battered women are four to five times more likely than non-battered women to require psychiatric treatment, and more likely to commit suicide. He reports that each year some one million women in the United States are sufficiently injured to seek medical assistance at emergency rooms from injuries sustained through battering. These injuries include bruises, concussions, broken noses, teeth ribs and limbs, throat injuries, lacerations and stab wounds, burns and bites. Injuries are caused by being struck by fists and blunt objects as well as knives, kicks, strangulations, being thrown down stairs and more. In view of the extensive evidence, Koop calls it "an overwhelming moral, economic, and public health burden that our society can no longer bear."

He demands a major response from governments at the national, state, and community levels; legislators and city councils; police, prosecutors, judges and probation officers; health professions and educational institutions; the communications media; the church and clergy; non-governmental organizations; and international organizations "that most demonstrate a clear recognition of the problem and provide the necessary leadership to us all." (Koop. 1989:5-6).

The AIDS crisis has cast unequal gender relations in a new light. In Africa, a continent where the AIDS epidemic has reached staggering numbers, women are experiencing the effects of male control in multiple and deadly ways. A report of the Health Ministry of Uganda reveals that there are twice as many cases of AIDS among girls between 15 and 19 years old as among boys of the same age group. These numbers reflect a common belief among adult sexually active men that they will have less possibilities of being exposed to the AIDS virus if they engage in sexual intercourse with younger women. In some areas where the control of women is reflected in traditional practices like female circumcision and infibulation of the clitoris, the risks of acquiring the disease have multiplied. Deeply entrenched attitudes and traditions around the world justify men's easy access to women's bodies and result in the transmission of the virus via rape, incest, and other forms of coerced sex. Thus although hard data proving the connection between AIDS and violence against women is not yet available, this is a research area that would expand our understanding of the deadly impact of AIDS on women.

UNDERSTANDING THE CAUSES OF VIOLENCE

Explaining why gender violence is so endemic is a complex endeavor is best pursued here as it relates to the question of prevention. There are innumerable theories ranging from biological and genetic explanations, to those which attribute causation to alcohol and toxic substance-abuse, poverty, socialization, and even women themselves (Commonwealth Secretariat, 1987:12). while some of these theories may contain a grain of truth, none of them

justify violence behaviour and are better understood as co-factors that can concur with a violent situation. The major point here is to look at violence against women as learned behaviour, which can be changed. Gender violence can be prevented or, at least, substantially reduced if the social and political will exists to make this happen. This discussion is not intended as an abstract investigation into the origins of violence against women, but as an effort to see how understanding gender violence helps to create preventive strategies that go beyond the social service response.

A Peruvian study by Vasquez and Tamayo (1990:106) argues that causes of battery are many, including unequal relations between men and women; the sexual hierarchy; domestic isolation of women with male figures as the final authority; early marriages before women have developed a sense of autonomy; the family as the sole institution that shapes women's identity; the representation of masculinity via the domination of women; poor communication in family conflicts; and, the privatisation of conflict between men and women in a couple relationship. This suggests a number of important development objectives that might reduce such violence. Jane Connors describes the pervasiveness of violation behaviour:

[as] best understood in the context of social structure, institutions and codes of conduct in this context, the abuse of women can be seen as a naked display of male power the outcome of social relations in which women are kept in a position of inferiority to men, responsible to, and in need of protection by them (Commonwealth Secretariat, 1987:14)

The Papua New Guinea study agrees with Connors assertion and states:

the essence of male violence against women is the sense of inadequacy, of vulnerability, of helplessness, of weakness and of sheer naked fear that men inspire in women when they

threaten or use violence against women. The use of brute force by men makes women feel inferior (Bradley, Ibid)

This suggests the crucial importance of building women's self confidence as a means of countering their vulnerability to violence.

Directions for Policy

The problem of violence against women is systemic and common to all societies. This paper specifically looks at strategies for combating violence against women as related to development planning in the Third World. There are several levels on which those concerned with the consequences of development for women can take action in addressing the connections between gender violence and development. The overall question is how to

make use of limited resources to support projects that take into account and challenge the limitations and constraints that violence places on women's full participation in development activities? The answer lies in the catalytic role which a development agency or

project can play at both the programmatic and non-programmatic levels. Central to this catalytic role is a commitment to highlighting the obstacles which gender violence places in the development path, and to identifying means of countering it in all phases of the project cycle: planning, implementation, documentation, evaluation and dissemination of results.

1. Action at Multiple Program levels

- A. *Awareness of the obstacles posed by gender violence*
 - i) In the formulation and implementation phases of a project, an awareness of cultural specific forms of gender violence can help identify and overcome obstacles impeding women's participation. For example, the lack of safe transportation when women interact with unrelated males may require the identification of alternative means of travel which are viable

Gender violence can be prevented or, at least, substantially reduced if the social and political will exists to make this happen

in the local context. The reservation of 'ladies only' carts in mass transit in Bombay, or obtaining the protection of the local khan for female health extension workers in Northern Pakistan represent such strategies.

- ii) Also at the formulation and implementation stages, sensitivity to situations where changes in women's status make them vulnerable to violence is essential. It is cultural truism that change is threatening. Project activities might both seek to strengthen women's self-confidence and ability to defend themselves as well as reach out to men in the community, win their commitment to the change, and even change their expectations. Project activities have a responsibility to respond to incidents of violence that occur as a result of the process of empowerment. For example, at the United Nations Development Fund for Women's (UNIFEM) project in Tampoal, Mexico UNIFEM staff had to take time to work with husbands and community members when violence emerged as a result of project participants' changing roles.
- iii) In personnel selection for the implementation stage, awareness of violence as an obstacle should be an important characteristic. Project management requires not just technical skill, but an awareness of the larger environment and how it must be altered to facilitate women's full participation.
- iv) Gender violence which obstructs development, as well as measures which reduce women's vulnerability to violence need to be documented as they occur in the project cycle. It can be noted in periodic reporting, in staff monitoring visits, or in evaluations. The findings can be collected and analysed as part of lessons learned from project experience.

projects that deal with violence towards women are building blocks for a more comprehensive, empowering, and therefore sustainable effort which will tap women's full participation in the development process

B. *The integration of statistics on gender violence into data collection, planning and training projects is central to the visibility and recognition of such violence as an obstacle to development.*

C. *Find sustainable ways of deterring gender violence.* On a very direct level, projects can experiment with techniques or interventions which focus on, or deal with, violence. With respect to deterrence, projects which document the extent and severity of violence against women, or which test one or more education campaigns and seek to make violence unacceptable within a society, can serve as models that demonstrate the possibilities and benefits of such approaches. In a similar way, projects

dealing with the consequences of violence (rape crisis centers, training of police, magistrates, hospital personnel, etc.) should be supported especially when they have some possibility of testing a new approach, or of influencing the government to initiate services and expand on tested approaches to addressing gender violence.

D. *Increase the capacity of women to identify and combat violence.* Projects which strengthen communication skills, raise women's awareness of possible actions, build management skills, teach self-defense, and strengthen women's organisations at the same time contribute to enlarging the capacity of women to address gender specific violence.

2. Non-Programmatic Steps

The International Development community, and particularly women's agencies within that community, can undertake important changes which are not project related, and would not require additional expenditures beyond staff time. This involves making violence visible as a development issue in relation to many other themes. By disseminating reports of projects

concerned with violence, women's advocates within the development community can highlight the impact of violence on programme activity.

Overall, development agencies and organisations addressing women in development must conduct their programme and project work with an increased sensitivity to the issue of violence, and the ways in which development itself brings forth new forms of gendered violence. It is important to address gender violence as an aspect of many other development projects such as income generating schemes or housing plans and not just those specifically focused on violence against women. International development agencies such as the United Nations Development Programme, UNIFEM, the World Health Organisation, and the International Labour Organisation, which are concerned with the issue of women in development, need to use their leverage and prestige as international agencies to expand the legitimacy and give voice to the groups working on these areas at the national or community level.

CONCLUSION

Attempts to integrate women into development are doomed to failure if they do not address the issue of violence against women. This article has attempted to build the case for the international development community's support of projects that address the various manifestations of gender violence as legitimate development projects. It maintains that projects that deal with violence towards women are building blocks for a more comprehensive, empowering, and therefore sustainable effort which will tap women's full participation in the development process.

Countering violence against women is not only eliminating an obstacle to the development of women but also actively addressing women's realisation of their full potential. This quote from an interview with a popular education worker in Mexico illustrates the potential of this work.

Q: How do you address the issue of violence?

A: When women explore their social roles, if the issue of violence doesn't arise, the

workshop methodology is not addressing the issues of gender. We ask women to choose which experience of violence they would like to explore of those they have mentioned - children dying of hunger, battering, economic hardships. They usually choose domestic violence as they already understand and confront the other kinds of violence. To confront economic violence, they sell food or demand government subsidies. But there are other aspects of violence that they can't even talk about in their family, with their neighbours or in their organisation. These forbidden themes are the basis of work with gender. There is not much to discover about being poor. But as women look at what it means to be women (poor women), they gain the desire to live, learn to express themselves, they see how they are reproducing sexual roles in their children. They discover the causes of their oppression and are empowered to act (Correspondencia, August, 1990.)

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The Principle of Universality and Cultural Diversity

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Radhika Coomaraswamy

Most of us, who have been fighting for women's rights and human rights over the last decade, have focused on the nation-state as the main target of our actions. We have demanded that international standards be adopted and ratified, that nation-states enact standard setting laws and that there be effective implementation machinery at the national level and at the international level to make these rights relevant in the lives of women. The recent Vienna Declaration is an indication and a measure of the success of such lobbying.

But for many of us in South Asia this is only a small part of a greater battle. While the struggle for standards and implementation at the international and national level persists, there is a greater battle taking place and that struggle is being fought in civil society. That battle is between those who are struggling for democracy, pluralism and ethnic tolerance and those who are strongly nationalistic or believe in a return to religious fundamentalism. This dividing line is increasingly tearing women and society into two camps and the state allies itself with one to promote some ends and the other to promote other ends. Many of the women who believe in the values of democracy and tolerance, not only in crisis but in every day life, are now fighting with their backs against the wall, as movements in civil society emerge which are rooted in the idea of identity politics - a politics which

privileges your religious and ethnic identity over others; where birth and blood are more important than rational self-interest; and where communities of language and religion are more important than communities of interest or political beliefs.

This primordilisation of politics took many unawares and emerged as the primary theme in the discourse of contemporary politics all over South Asia. Whether it is Hindu fundamentalism, Islamic fundamentalism, Sinhala nationalism or Tamil nationalism, the community of interest is branded at birth and by tribe and not on what is fair, just and equal. Subjective concerns have overwhelmed national or international objective standards. Who you are is more important than what you believe.

There are many who feel that this rise in nationalism and fundamentalism is a positive phenomenon. To some, this is part of the same process of decolonisation which took place in the sixties and seventies - a cultural resistance to the west. It is also the emerging alternative discourse to western imperialism. With the collapse of the Soviet Union, the alternative discourse to western imperialism is no longer in fashion. What is emerging is a cacophony of movements rooted in what is called a "million munities of the particular." In the eyes of many, nationalism and fundamentalism are a challenge to the western world view which

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they feel dominates the international arena. This is a serious criticism which has enormous popularity in the countries concerned. However, to subscribe to such a view is to throw the baby out with the bathwater.

This contradiction between the push for pluralism and the pull towards international human rights documents is an aspect which has to be negotiated with sensitivity

To save the international standards of human rights from destruction in our countries, we must also join other third world countries in demanding that the United Nations and the international arena be more aware of third world issues and that international decision-making be more representative.

We must make it clear that fighting for third world rights is not fighting the international conventions on human rights; and that western countries, as well as our own, are subject to the same standards. This must not only be true but also appear to be true in international action and practice. The fight for democracy at home must be coupled with a struggle for more representative politics at the international level. Legitimacy with regard to international standards will only be strengthened if international processes, as a whole, seem to be fair and just. So, for third world women there is a twin battle cry, human rights at home and representative politics at the international level.

There are those who argue that the rise of nationalist and fundamentalist movements in civil society is a sign of politicisation where citizens are beginning to make claims of the state. They argue that pluralism will be strengthened if these views are articulated and if there is a contest in civil society where different ideas may be expressed (i.e., let there be a vibrant marketplace of ideas with vitriolic debate.) This contradiction between

the push for pluralism and the pull towards international human rights documents is an aspect which has to be negotiated with sensitivity.

When minorities ask for autonomy and the recognition of their identity, most of us would consider it a positive sign, a pluralist demand that would further democracy. But, when majorities claim the same rights, then pluralism is actually perverted and we have a self-righteous majority dictating terms to those who, because of their numbers, will never be able to capture state power. What concerns us is this growth in the assertion of majority culture as the only culture of the nation, to be celebrated regardless of international standards. This is a threat to both democracy and pluralism within a nation-state. The tragedy is that in South Asia at least, the growing militancy on the part of some members of the majority community is matched by violence and hatred unleashed by political groups claiming to represent minority communities. Alternative nationalist and/or fundamentalist symbols also appeals to this minority in their struggle for power, and to legitimize this militancy. When there is a battle between different forms of militancies in one civil society, democracy and pluralism are actually lessened. That is the lesson of South Asia today.

As others have pointed out, this battle is not being waged with words but with violence, violent speech, and violent action. The riots of the 1980's in South Asia, whether in Colombo or New Delhi, are examples of this concern. The discourse of fairness and justice - the discourse of the liberal socialist movements of the past - has been lost to the discussion on birthright, homelands, religious exclusivity and linguistic purity.

Nationalism has been defined in many ways. People have called it the foremost ideology in the world. It is said to have a protean character and has a promiscuous habit of linking itself to other ideologies - almost any ideology. As a result, we have right wing nationalism, revolutionary nationalism against colonial powers, economic nationalism, etc. And yet, though it is linked up with various forms of nationalism there are certain

variables which are constant. Nationalism puts forward a doctrine that there is a link between a people and a territory and that this union should be the starting point of any political analysis within a given nation-state. If a group, which defines itself as a nation, does not have state power, nationalism is the ideology which motivates them toward acquiring statehood. So the paradox: nationalism is the ideology of majority communities when they keep nations- states together by consensus or coercion and it is also the ideology that minority groups ascribed to when they demand autonomy or a separate state. More often than not, we have two or more sets of nationalism or fundamentalism in a fierce contestation for resources and power within a particular nation- state, one using nationalism to keep the territory together and the other using nationalism to demand autonomy and a separate state. My country, Sri Lanka, is one such case-study. These dual nationalisms are tearing the country apart, not only in a secession sense, but with regard to people, resources and suffering.

Fundamentalism on the other hand is not limited by territory. It is a movement in civil society which often cuts across national borders, a remnant of the religious dynasties of the past but which urges a re-reading of fundamental religious texts with emphasis on the textual essence and nothing else. Popular practices and non-authentic practices are discarded, and a new "pure" religion interpreted by modern day religious personages is accepted. Fundamentalism does have a political face in that it is a lobby against the use of state power which would in any way challenge the textual legitimacy of a religion. It is also exclusivist and is very clear in delineating the self from the other, US from THEM.

Nationalism and fundamentalism are movements of civil society. Their relationship to the state is another problematic area. When these lobbies become powerful enough, they may end up capturing state power or become primary spokespeople for a community. Then the state and the movement become one. In other contexts, they may remain a movement in civil society which brings pressure to bear on elected governments threatening the

voter base of the government in power. This fear of losing a voter block then drives the state to follow a policy of appeasement which then determines the terms of political debate.

The strength of these movements is their autonomy and independence from state power and their capture of institutions of civil and religious society. Their trained cadres, their organisational skills, their discipline, and their ability to mobilise thousands gives them enormous strength in negotiating with governments in power. Unlike human rights models, where an individual can be pitted against the state before the judiciary supported by NGOs, the movements for nationalism and fundamentalism are mass movements whose organisations follow the principles of a highly disciplined political party. Their organisational superiority and their other movements in civil society, especially those NGOs in civil society fighting for peace and tolerance. Their discipline and effectiveness make peace NGOs look like weak traitors. (This is why I said that women's groups and human rights groups fighting for peace and tolerance, are fighting with their backs against the wall.)

At the Vienna Congress, the Asian group of countries posited a challenge to the international world. They argued that human rights must be judged in culture specific terms; that human rights as presently conceived are western; that economic and social rights are more important than political and civil rights; and group rights are more important than individual rights. This argument is particularly lethal when it comes to women's rights, for any emphasis on culture specifically implies also the freedom to develop family law and community practice, which fall far short of the standards set out in the Convention to Eliminate All Forms of Discrimination Against Women (CEDAW). It is therefore important that any documents or positions coming out of international conferences, consultations, etc., reiterate that human rights apply to all peoples regardless of culture or religion.

We may also add that many of these cultures and almost all of the world religions can be inter-

interpreted to promote human rights concepts and that if they are used, it must be to further international standards and not to restrict them.

In most Asian societies, there are what I may term "dual lines of legitimacy." The first is political. Regardless of what the Asian governments say, people in Asia cherish the right to vote and the franchise. This is verified by the election fever that hit all parts of Asia and led to massive electoral turnout in Korea, Philippines, Pakistan, Bangladesh, Nepal and now recently in Cambodia. This proves beyond a doubt that the average citizen in these countries has accepted the right to vote as a fundamental right. This right to vote is inextricably linked to a representative democratic system and such a system will only work if it believes in human liberties and equality. So, coming out in large numbers to vote at elections is proof that the people casting their votes accept the indivisibility of human rights at least when it comes to politics and representative democracy. Human rights has political legitimation when it comes to the state.

The question, however, that we in Asia have to face, and face honestly, is whether human rights have the same type of legitimacy when it comes to cultural aspects in community life and in the home. This is the dual line of legitimacy. In this area of culture and community, it is nationalism and fundamentalism which have a greater say. To most women culture, community and family are the most important sphere. This dual and somewhat schizophrenic legacy, one political and the other cultural, which is the core of our problems. On the one hand, human rights has achieved legitimacy in conducting political life, but culture and religion are more paramount when we refer to the community and the family.

For women, all this comes to a head when we speak about a Uniform Civil Code, or the revision of the personal laws. In countries like South Asia, all women are not equal. Whom you marry, how you conduct your marital life, divorce, or custody of children depend a great deal upon which community you belong to. Important sections of international human rights law which relate to

women are therefore not operative in our community and family life. Again, it is culture which is the rallying cry of those who feel that there is an international pull toward a uniform culture being imposed by the western countries.

This right to vote is inextricably linked to a representative democratic system and such a system will only work if it believes in human liberties and equality.

It is therefore necessary that we deal with these issues in a comprehensive manner. Many women stand with their third world men when the call of culture and uniqueness are being voiced. They do not wish to see the homogeneity of culture which emanates from outside their society. Our task is to understand the pluralist need for an international culture which celebrates diversity. But that diversity has to have a minimum of standards of human life and dignity, particularly when it comes to women. That is the task of third world activists throughout the Asian region - how do we celebrate diversity while enjoying human rights? It is a task that will haunt us for the next few decades. But in so doing, we must remember the words of Madhu Kishwar:

Our cultural traditions have tremendous potential within them to combat reactionary and anti-women ideas, if we can identify their points of strength and use them creatively... We must realise that if we fail to acknowledge and help reinvigorate the deeply humane portions of our heritage, none of our efforts are likely to succeed.

Diversity, yes, but only on the firm foundations of universally acknowledged human rights and women's rights.

Source: Claiming our Place: Women, Universality and Cultural Diversity

The Politics of Gender and the State:

*Implications for Women's Claims to Human Rights**

Ramya Subrahmanian**

I. Why do we need to address the state?

Advocacy strategies of women's movements the world over are increasingly moving towards the understanding that demands for women's rights, equality of participation, opportunity and agency in all spheres of life, need primarily to address the institutions which structure society and provide the context of women's lives. These institutions range from the family, to the community, market and state. The way each of these intervenes to construct and uphold socio-economic and political inequalities between women and men needs to be understood, and strategies need to be evolved based on the possibilities for transforming these institutions to make them more equitable and just.

The UN Convention on the Elimination of All Forms of Discrimination (CEDAW), which provides the single most comprehensive framework for achieving women's rights, has obligated state parties to protect women's rights by addressing all the varied forms of discrimination that women encounter across the artificially constituted spheres of the private and the public. This means that the state (by virtue of being an institution with the greatest regulatory power) has been called upon to fulfil its obligations to its citizens, particularly the disenfranchised citizens, with an accountability both to an international body, as well as to the

women they claim to protect. However, awareness that the state has rarely intervened to remove the sources of the subordination of women, the primary cause of which is the unequal power relations between women and men, makes it very unlikely that the state will ever *voluntarily embark* upon truly redistributive policies.

Mechanisms for demanding legal rights operate in the context of a given politico-economic system, which the state is usually mandated to regulate. It is important to recognize that a charter of rights may not remove structural inequalities of the system which makes it difficult for individuals to realize those rights. How these structures are constituted and legitimized by the state must then become an area of analysis, if we are to know how to proceed.

In addition, women need to understand how the state operates, because the state has contradictory and conflicting implications for their rights. On the one hand, the state contributes actively to the oppression of women by continuing to push through discriminatory policies and laws, and through the legitimization of the authority of men over women at every level, through policy and practice. An example of this can be found in the sanction of laws based on religious ideologies and beliefs in many parts of Asia. By sanctioning the authority of religious law in structuring personal

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relationships within marriage and the family, the state also is sanctioning the authority of community religious leaders (almost always men) and further the authority of individual men who are designated as heads of households. Women's efforts to protest the use of religious ideology in determining their rights within the family have generally been ignored. The continued support for and pursuit of development processes which have been proved to discriminate against and marginalize women is another case in point.

a charter of rights may not remove structural inequalities of the system which makes it difficult for individuals to realize those rights

However, on the other hand, states can also be seen as potential allies for women, because they do not *explicitly* subscribe to the politics of discrimination against women. Most states refer to the equality of men and women in their constitutions, and many even have evolved complex national machineries and institutions specifically mandated to protect women's rights. They are obligated to uphold rights of every citizen through law, and this offers many women potential to redress the violation of their rights outside of the often oppressive institution of the family. If the state does provide some institutional alternatives to claiming rights, then we need to focus our strategies on challenging its legitimacy when it contravenes these obligations, and ensuring that opportunities to use these alternatives are constantly demanded and used.

II. Towards a comprehensive definition of the state:

Once the need to understand the ideologies and operation of the state has been established, it becomes important to develop some components of a possible definition. It will not be possible here to go into details of different formulations of the theories of states, so the focus instead will be on

a conceptualization of the state which takes into account how gender relations shape the state, and how the state responds to the demands of women. At the outset I would like to clarify that as not all states or societies are the same, there are likely to be several differences in the way state-gender politics are defined and played out. The objective of a definition is not meant to achieve a homogenized or generalized understanding of the state, but to understand and to some extent predict what the common features of the politics are likely to be. I would also like to clarify that there is a distinction being made here between states and regimes: regimes may come and go, but they must be seen as part of the overall processes of state evolution and development. At the same time, women interact with regimes at various historical points, so they must also be part of analyses of state-gender politics.

1. Some basic aspects of the state

- a. The official ideologies underpinning the state's justification for existence are the following: circumscribing and establishing territorial integrity, protecting the people within this territory from internal or external threats, providing for the interests of its people (subsumed under the national interest) through enacting policies and laws to regulate their lives thereby deriving its legitimacy to perform that role, and establishing the right to existence vis-a-vis other states.

The fulfilment of these responsibilities lead the state to command certain rights for itself: right to define the national interest and pursue it in its own terms, right to use force whenever there are internal and external threats to the national interest, and the right to forge a unified identity of its people in order to most effectively pursue its responsibilities. Once the state commands these rights, then it also has the power to uphold a social order which is the most likely to sustain the status quo and ensure uniformity and conformity.

2. How have feminists tended to view the state?

Feminist theorizations of the state have tended mainly to fall into two categories:

- a) the liberal-pluralist view of the state, which sees the state as a "neutral" arbitrator concerned only with allocation of resources based on claims. This version of the state holds that because it is dominated by upper-class men, it naturally is biased in favour of them. The implications of this view are that the state in itself has no political interest in continuing gender discrimination, and so this can be changed if access of women to participation and decision-making within the state is increased (Staudt 1986; Charlton et al 1989.)
- b) the Marxist view of the state, where the state is seen purely as the creation and territory of the dominant capitalist class, upholding and reinforcing class inequalities. In such a conceptualization, the state has no autonomy at all, and is merely a puppet of dominant class interests. This means that the state can offer no potential for challenging the status quo, and the challenges cannot be posted until capitalism itself is overthrown (Charlton et al 1989).

The problems with both these above views are that each defines the state in ways that limit the possibilities for manoeuvre and change. The state is either perceived to be a sleeping dog or an enemy, neither of which offers any potential for understanding the power structures of the state in a concrete and strategic manner. This does have implications for the way feminist politics can address the state, because it either underestimates the power of the state, or emphasises its power to the exclusion of any kind of agency that women and other disadvantaged groups may possibly exert. The implication also is that the state is one monolithic structure which is static and immutable, which again precludes the chance for political manoeuvre. This view is ultimately reductionist.

An emerging theory of the state is one which seeks to understand the state as a *plurally constituted, historically and socially created set of institutions which uphold a normative order* (see Connell 1990; Charlton et al 1989). This normative order has a central core of power and politics which is constantly being negotiated and struggled over. The increased power of dominant demand groups within a country enables them to stake their claims to defining the normative order - these could vary from the landed classes in semi-feudal countries to industrialist lobbies in capitalist states, but the common feature that they all share is that they are inevitably men. Thus state processes must be understood as dynamic and constituted by social relations, including those of gender.

Relations between men and women have been defined and have evolved over time. The gender division of labour has been a constant historical factor, although with variations in form; but it still remains the basis on which differential value is placed on women's labour from reproductive labour to domestic and productive labour. This differential valuation plays a crucial role in locating women in their marginalized positions.

This conceptualization of the state thus recognizes the crucial role of socially created and sanctioned power relations in influencing the outcomes of contested claims and priorities. At the same time it acknowledges that the state does have some autonomy from the normative social order, evident in the space created by states to protect universal rights. It is also an "empowering" definition, because it recognizes that human agency can make a difference, and liberates possibilities for transformation.

III. State-gender politics: An example of conflict over interests

Understanding how the state's defined interests (as discussed above) can conflict with women's interests¹ is a complex though necessary exercise, because it reveals much about the way the state institutionalizes and operates its ideologies. Here it is important to note that although we talk about the state as having a distinct power base and distinct institutional goals and responsibilities, it

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does not function independently, but is intimately interconnected with the functioning of other social institutions. For example, the market as an economic institution cannot be analyzed independently of the state: the state enables the market to exist through creating conducive conditions for its functioning, and the market in turn determines the nature of the state's financial and other development policies.

An example of how the state interacts with community, market and household institutions in restricting women's rights can be found in the arena of women's fertility and reproductive labour. By granting women's reproductive roles legitimacy only within the boundaries of the male-headed family unit, the family becomes ideologically constructed as the site of "biology", thus ascribing all activities that take place within it as naturally ordained rather than socially constructed. Women, by bearing children "involve themselves in promoting mankind's (and in extension also the state's and capital's) interests" (Jonasdottir 1988). Women are burdened with the *responsibility* of bearing children and caring for them, but they are not granted any *rights* over how and when or under what conditions they wish to bear children. The "product" of women's "labours" are thus claimed and appropriated by all, completely devaluing women's responsibilities for and contributions to the bearing and rearing children. This devaluation sets in motion a whole chain of discrimination that cuts across all institutions, from the family right through the community, market and state.

Although women's reproductive roles become the common property of all and thus are made "public", women's rights in this respect are not granted, because it is considered to be a highly "private" function that women perform. This contradiction is evident in the state's attempts to regulate the family. A stereotypical norm of family is upheld through law and practice which constructs the family as male-headed; the family is also considered to be a site of altruism and emotion, and is thus defined as an intimate and private unit, in which the state would prefer not to intervene. This means that although the state has provided for the *de jure* rights of women as individual citizens, it

does not extend the protection of these rights to women as individual members of family, precisely because it too is blinded by the ideologies of altruism and emotion which are believed to be the rationale for family bonds. Thus even when this myth is shattered with the evidence of increasing violence against women within the family, state policies, laws and institutions would prefer to view this as individual cases of male deviance rather than a more complex structural phenomenon based on unequal power between women and men.

This devaluation sets in motion a whole chain of discrimination that cuts across all institutions, from the family right through the community, market and state

The logic of the marketplace and the norms of the community or civil society also play a role in mediating the rights of women based on their reproductive role. This biological difference between men and women is used by the market and other economic institutions to justify the payment of unequal wages and the restriction of women to certain stereotyped and unskilled forms of work. The lower valuation of women's work which has its roots in intra-family inequalities thus becomes legitimized as economic rationality and treated as an indisputable fact. The state capitalizes on this unequal valuation between men and women in two ways; either it reinforces women's reproductive role as primary when it needs to cutback on health and social welfare expenditure, or it stresses women's economic productivity when women are needed as a source of cheap labour to boost economic growth. Often it aims to please the interests of *capital* and the interests of patriarchy by combining both approaches.

This is particularly evident in the experience of many countries undergoing structural adjustment programmes. Religious leaders are increasingly being allowed (particularly in South Asia) to em-

emphasise women's obligations to the family, thus bringing in the wider community as well into the politics of gender equality.

Symbolic law or frameworks or principles like the Convention enable women to legitimize their claims to human rights. They may not directly bring about social change, but create conditions conducive for pressing justice claims

The implications of this for feminist politics are enormous. Women's immediate interests particularly in the Third World are intrinsically linked to family survival (Charlton et al 1989; Jonasdottir 1988, Stivens 1991). Women's lack of control over their fertility, which is sustained by most state policies on population control, the prioritization of their responsibilities as childbearers over their rights to health as humans, their consequent devaluation in the labour market, restricted mobility etc., are all interconnected. The family thus becomes the primary site of struggle for women, and particularly the interests of women to have control over their sexuality, fertility and their rights to live without violence or the fear of violence. Ignoring the family only serves to depoliticise the struggles over needs that women engage in on a daily basis in their interaction with state, market, community which is mediated by the family.

However, the state's role needs to be highlighted precisely because it points to a contradiction in state claims to protect universal rights of citizens. The state contradicts itself on the one hand refuses to intervene in violations of women's rights within the family by claiming that it belongs to the "private" sphere, while on the other hand it actively intervenes in this private sphere, regulating it through law, determining the kind of reproductive choices women make through its health care and population control policies.

IV. A Strategic agenda for women's claims to human rights

1. A constructive approach would be to use an analysis of the state's functioning and ideology to identify areas where the state contradicts itself, and where women can challenge the state's contravention of its obligations. Some of these contradictions are evident from the discussion above:
 - i) Most obvious is the public-private contradiction that has been discussed above. Feminists have already asserted that the "personal is political" and that the "private is public", but to get the state to acknowledge these means that we have to challenge the state's own contradictions in this area.
 - ii) We have already seen that there is an inherent contradiction in the way the state guarantees citizens universal rights and equality, while on the other hand indirectly or directly violating this guarantee. If the state's claim to the right to regulate the lives of its people is based on its power to protect, then we have to expose this contradiction by challenging the state's very legitimacy and right to perform this task.
 - iii) The state is comprised of many aspects, some tangible, the others intangible; its boundaries are often not clear, and there is often no coherence between different aspects of the state. Within the state too there is internal differentiation: for example, the legislature has some power to control the bureaucracy, while on the other hand the bureaucracy reaches out to people in a way in which the legislature does not. Looking out for the loopholes created by the state's vastness and ideological fluidity can help to find contradictions that can be used to advance women's interests.
 - iv) A point that is not stressed adequately in analyses of the state is the extent to which states respond to international pres-

sure. The importance of appearing to be progressive in the eyes of other states often leads states to make international gestures to prove their maturity. It is important to capitalize on these international statements, as well as challenge the state when it selectively uses the notion of "national interests" or "cultural integrity" to bargain away women's rights. The contradictions between the international position and the national reality are useful ways of embarrassing states.

2. However, to make full use of these opportunities afforded by the relative autonomy of the state, women too must work, among others, towards the following:

- i) Achieving critical mass (sufficient numbers to make a difference) within state institutions and informal political processes to put pressure on the state. The state too is comprised of individuals who write the rules; if enough women enter these institutions, we too can rewrite these rules. Until we demand the equal right to determine the rules, we will only be able to experience "conditional liberation" (Jonasdottir 1989).
- ii) Mobilization of women in necessary to spread awareness of the possibilities for social transformation. Women have to feel empowered to take on the state, to challenge its limitations and to internalise their right to stake claims on the state.

V. States and the Convention: the potential for influencing change

To summarize, I would like to return to the role of the Convention in aiding the project of feminist claims to women's human rights. Firstly, the role of international legislation, however symbolic it may be, cannot be negated. Symbolic law or frameworks or principles like the Convention enable women to legitimize their claims to human rights. They may not directly bring about social change, but create conditions conducive for pressing justice claims. As noted above, the Convention also provides an additional tool for demanding accountability of the state.

Demanding rights also enables us to hold the state accountable and obligated to fulfill its duties towards citizens, and moves away from a reliance on the state's benevolence and goodwill (Goetz, 1991). However, a final word of caution: we must ensure that by demanding that the state protects women's individual rights within the family, we are not seeking to transfer control from one institution to the other. We have to be clear about the boundaries we are seeking to establish between our rights and the institutions of the family and state. Here the *content* of our demands will be crucial. The Convention provides a useful framework for pressing our claims.

Notes

1. There is no space here to engage in the debate that has been carried out over the concept of interests, particularly women's interests. For the sake of clarity, I would here like to use a definition framed by Jonasdottir (1988) which views interests as control over conditions of choice not just consequences: "... increasing our real possibilities to determine what values become the object of choice, and on the other, to increasing our abilities to see alternative choices clearly, free from distorted feelings, and aided by adequate concepts and sufficient information...".

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NGO Strategies and Relations with Governments in Advancing the Status of Women in the Asia-Pacific Region¹

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There is general agreement that there have only been modest gains in the past decade in the elimination of discrimination against women. Perhaps, the most significant achievement has been to raise women's issues to the level of public discourse. While there have been conventions, articulated policies, revision or introduction of laws, and even concrete interventions at the grassroots level, discrimination against and oppression of women in practice remain pervasive. In a very real sense, even as the importance of inter-governmental agreements as well as legal and policy initiatives are recognised, many of the achievements are severely restricted and eroded by the political, economic and cultural context in which they operate.

The prevailing international economic order and the development paradigm that is peddled as

the solution that will deliver countries and peoples from poverty, actually constitute the major obstacles to the goal of gender equality. The irony is, while progressive ideas underpin the Forward-Looking Strategies and notwithstanding the appropriate identification of the structural factors that impede women's development, much of the activity has taken place within crevices and on the margins, and does not directly challenge the basic conditions that reproduce patriarchal structures.

The countries of the Asia-Pacific region, with few exceptions, share important commonalities-national security states, export-oriented industrialisation, massive exportation of human labour, rapid and haphazard urbanisation, dependence on foreign aid, unregulated natural resource exploitation and massive environmental degradation. It is women who must bear the brunt of distorted development and immense poverty. It is women who are in-

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variably sacrificed as the shock-absorbers of incoherent development policies and programmes. For as long as development follows these lines, women will be trapped within a model that not only keeps countries poor but feeds on the continued existence, if not expansion, of the subordination of women.

The Forward-Looking Strategies is an expression of the goals that government agreed, among themselves, to attain. While their intentions may be commendable even if execution leaves much to be desired, it is largely the inadequacy of their development model that makes gender equality distant reality. It is from this perspective that the relations between NGOs and governments need to be analysed.

A word of caution must be mentioned at this point. NGOs, even if the label is unfortunate because it defines us based on who we are not, enjoy a growing credibility as well as a certain level of power in most countries of the region. However, it is necessary to point out that only a segment of the NGO community consciously espouses the goal of gender equality. While gender-conscious NGOs are present and active in all spheres of development - human rights, environment, sectoral concerns - they are still a minority, the rest being either gender-blind or placing women's concerns as subordinate position to other issues. As such, the rest of the article shall refer largely to the work of NGOs that assign a central place to gender.

The prevailing international economic order and the development paradigm that is peddled as the solution that will deliver countries and peoples from poverty, actually constitute the major obstacles to the goal of gender equality

These NGOs can take credit for significant strides in keeping alive the essence of the Forward-Looking Strategies. Knowing fully well that such

goals can be buried in the rhetoric of bureaucracies. NGOs have played a crucial although frustrating role in pushing governments to keep their promises through untiring, even if sometimes sporadic advocacy and concrete experimentations at the grass-roots level. It is in the field of awareness-raising and empowerment that NGOs have made many of their contributions. These are areas that are implied all throughout the Forward-Looking Strategies, though not explicitly stated.

It must be noted that the Forward-Looking Strategies provided, in large measure, a concrete base on which relations between governments and NGOs were built. Apart from the specific sections explicitly mention NGO contributions, the very fact that governments signed the document provided a handle with which NGOs could maneuver. Still, the NGOs did not limit themselves with Forward-Looking Strategies, rather, they autonomously set their own goals and, in fact, have gone beyond the Forward-Looking Strategies.

As undeniable tension exists, there is discordance in the operational perspective or ideological aberration that informs the design of strategies of governments and NGOs. A spectrum of choices as to both NGOs and government can be gleaned from experience. At one end of the spectrum is network that is still largely based on the traditional invisibility of women, a perspective that would consistently disowned by any government. An improvement over this would be the view of women segment of the population that requires special care, protection and welfare. After the Forward-Looking Strategies, these two perspectives are no longer publicly defended though they may effectively exist in fact.

By far the most acceptable frameworks for governments are the next two--integrating women and development, and women as partners in development. While the latter is an advance over the former it emphasizes an equal role for women as against simply bringing women "into the scene", who are trapped within the existing development paradigm.

Two other perspectives exist which appear to underlie the orientation of many NGOs, even some

would stop with women as partners in development—gender and development, on the one hand and gender and transformation, on the other. Both, unlike the previous standpoints, emphasize the crucial reality of power relations within the existing structure of patriarchy, with the transformation perspective insisting that the end of gender oppression can only be realised within the context of empowering women—not only to benefit from development, but to change the very parameters that concern human existence. Within this perspective, issues of nation, class, species, sector, generation and gender are not mutually exclusive they are intimately intertwined, each one integral to the other.

Much of the difficulty that NGOs face in working with government stems from a difference in perspective. This tension is expressed through mutual suspicions; differences in focus; the insistence quantifiable outputs that lead to compartmentalised approaches versus qualitative goals within the comprehensive and holistic programmes, and, the subordination of women's issues to the overall goals of development versus the centrality of gender issues in all spheres of development. These are the sites of many of the skirmishes between NGOs and governments.

the capacity of NGO community to advance the status of women depends on its strength in terms of organisation, analysis and direction, the capacity to sustain activism, the size and spread of its constituency at the grass-roots level and the engagement in both reactive and proactive actions

The dynamics between NGOs and governments must also be viewed in terms of the internal characteristics of each organisation. The capacity of NGOs to advance the status of women depends on number of interrelated factors. First, in terms of government, its degree of openness to NGOs,

the presence of a few supportive and well-situated women, the centrality of the government's focus on women, the presence of formal structures

the end of gender oppression can only be realised within the context of empowering women—not only to benefit from development, but to change the very parameters that concern human existence

charged with women's concerns and their relative position in the state structure, and the level to which it is confined to the traditional development paradigm. Second, and more importantly, the relative strength of the NGO community in terms of unity, organisation, analysis and direction, the capacity to sustain activism, the size and spread of its constituency especially at the grassroots level, the engagement in both reactive and proactive actions, understanding of the bureaucracy, capability to use international instruments as advocacy weapons, and skills. Third, channels of interaction and pressure in terms of media support, linkages between Governments and NGOs both at the formal and informal levels, and the degree to which other movements have integrated gender concerns in their own struggles.

NGO strategies vary depending on the above considerations and the specificities of their own national realities. For instance, in the more developed countries of the region where the basic survival needs are being met (usually by a well-integrated political, economic and cultural machinery), the opportunities for women's action may tend to be more constricted. But in the less developed countries and in the national security states, the burdens of poverty result in programmes that are primarily geared towards the provision of services. In countries of this sort, NGOs invariably have to face the dilemma in balancing service and struggle, very often stretching themselves to the limit.

Across the Asia-Pacific region, most NGOs undertake comprehensive programmes via a focus on specific issues like economic empowerment, the law, violence against women, political participation and various support services. Whichever focus or issue an NGO chooses has four interrelated components: structure (the overall framework governing society that is expressed and reinforced through existing institutions), substance (the content and form of gender bias), culture (behaviour and modes), all of which are anchored on the personal (effect on each individual). The closer an NGO to the gender and transformation perspective, the greater is the interaction among all components and the comprehensiveness of approach to each of these components.

A strategy, although defined in various ways, is a concrete, planned and systematic response to a problem or issue with clear objectives and a series of activities. Every strategy attacks at least one of the components of an issue, and is directed towards a formulated goal by engaging in a range of activities and utilising external variables that would strengthen the potential for success.

Each component, by its very nature, implies certain activities structural (new paradigms/models, advocacy, political participation), substantive (research, support services); cultural (education/training, campaigns, constituency-building), personal (consciousness, assertiveness, confidence-building, skills). Depending upon the perspective that informs an NGO's actions, one may choose to focus largely on only one component with limited activities that often are mistaken to be goals in themselves. Thus, the integration of women in development framework would have a greater tendency to treat these components in a compartmentalised manner,

attacking the substantive component via the provision of support services or the cultural component through training programmes.

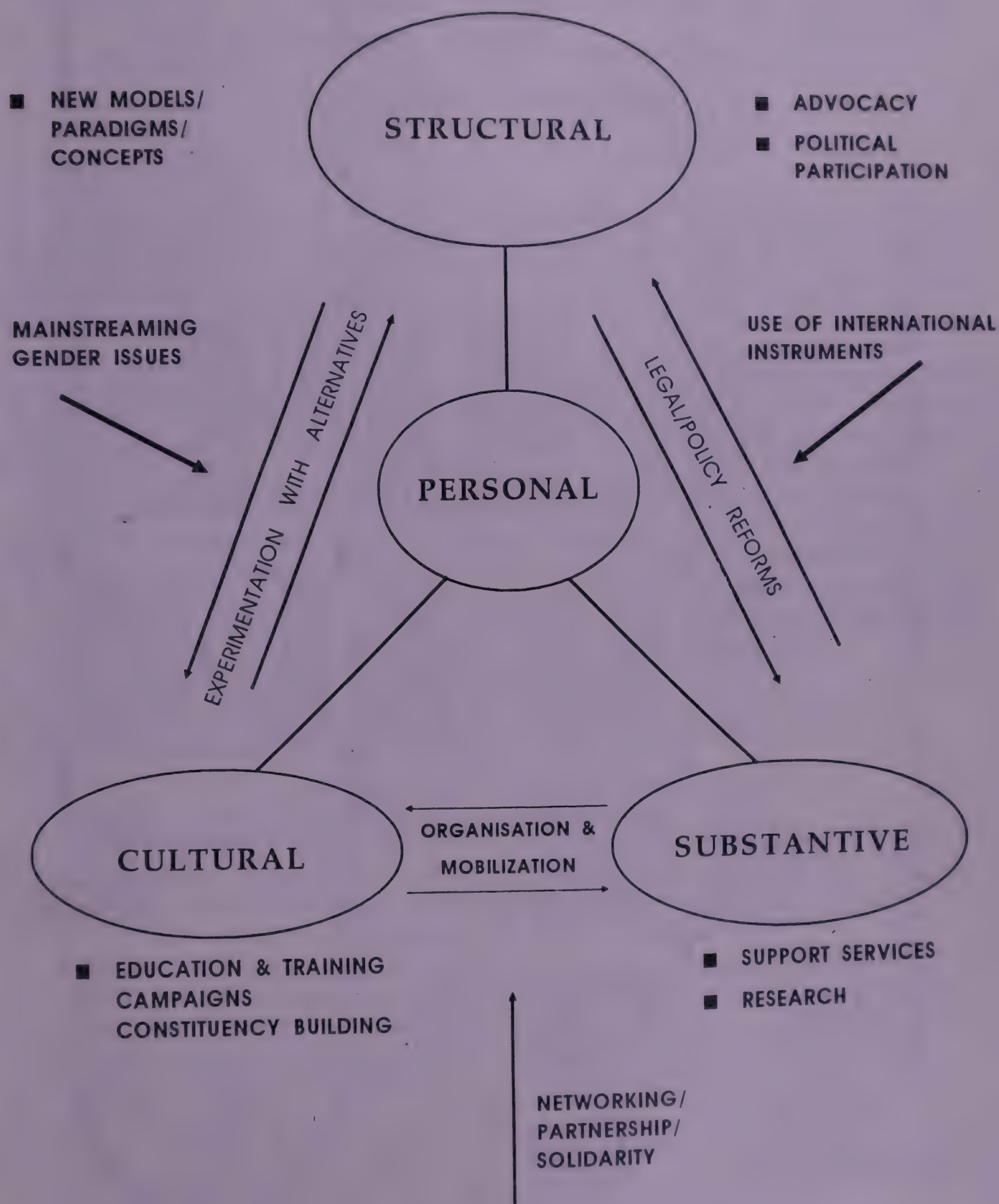
Most strategies in the region can be categorised into three major but interrelated goals: organisation and mobilisation, legal and policy reform, and concrete experimentations with alternatives.

ensure that gender equality is realised through both collaborative and confrontative relations, utilising the system whenever it is possible and challenging, at times even subverting the system whenever it becomes necessary

Finally, NGO strategies are assisted by the development and utilisation of three factors that may be considered external to the issues but nevertheless constitute important variables especially when working with government. These are: the use of internal and international instruments; networking, partnership and solidarity, and mainstreaming gender concerns in the larger NGO or political movements.

In the pursuit of these strategies, NGOs necessarily interact with governments. It is imperative that NGOs autonomously go beyond the Forward-Looking Strategies and the limits of their respective governments, not to take over their functions but to ensure that gender equality is realised through both collaborative and confrontative relations, utilising the system whenever it is possible and challenging, at times even subverting the system whenever it becomes necessary.

NGO STRATEGIES



UNITED NATIONS TIMELINE FOR WOMEN

"Our mothers struggled from day one at the United Nations to ensure there was a space where women's voices could be heard. And over the years women have struggled to ensure that space would expand!"



1945

The United Nations Charter preamble reaffirms "faith in fundamental human rights... in the equal rights of men and women."

Women delegates demand special attention for women's concerns at the first UN General Assembly in San Francisco. The Economic and Social Council (ECOSOC) establishes a Sub-Commission (to the Commission on Human Rights) on the Status of Women.

1946

The first and only meeting of the Sub-Commission votes unanimously that a full Commission on the Status of Women is needed.

A Branch for the Advancement of Women is set up in the Department of International Economic and Social Affairs.

The Commission on the Status of Women is set up June 1946.

1978

The United Nations International Research and Training Institute for the Advancement of Women (INSTRAW), proposed at the IVW World Conference is temporarily set up in New York. It is established in 1983 in Santo Domingo. In 1985, the UN General Assembly endorses its statute.

1975-1985

United Nations Decade for Women

1975

The United Nations Voluntary Fund for Women is established and becomes permanent and autonomous in 1984 as the United Nations Development Fund for Women (UNIFEM).

On the basis of research and knowledge gained in 1975, the UN declares the years 1976-1985 to be the Decade for Women

1984

UN World Survey on the Role of Women in Development marks the first official recognition that women have a major concern in all development issues at both macro and micro-level and is seen as a turning point in the history of women's issues in the UN system.

1991

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) enters into force with the 20 ratification required.

1990

Mid-Decade World Conference for Women and NGO Forum, Copenhagen, Denmark.

1979

The General Assembly adopts a completed draft Convention on the Elimination of All Forms of Discrimination against Women.

1978

Article 2 of the Universal Declaration of Human Rights proclaims "everyone is entitled to all the rights and freedoms set forth in this Declaration without distinction of any kind such as race, colour, sex..."

1978

The UN General Assembly recognizes that women are "subject to ancient laws, customs and practices" inconsistent with the Declaration and calls on governments to abolish them.

1978

The General Assembly notes continued discrimination and calls for a draft Declaration on the Elimination of All Forms of Discrimination Against Women.

1978

The UN/CSW submits first draft of Declaration.

1978

The General Assembly adopts a revised Declaration "to ensure the universal recognition in law and in fact of the principle of equality of men and women."

1979

The General Assembly urges "ratification of or accession to the relevant international instruments relating to the status of women"

1979

ECOSOC appoints a 15-member working group to begin drafting a convention.

1983

ECOSOC initiates a reporting system on implementation of the provisions of the Declaration by governments.

1985

End of Decade World Conference on Women, Nairobi, Kenya at which the Forward Looking Strategies for the Advancement of Women (FLS) is unanimously adopted. Now the UN system really starts to move on women's issues and concerns. Both the FLS and the lobbying of the international women's movement played a role in achieving this.

In 1988, the Branch for the Advancement of Women is given the status of Division and becomes the central UN unit for all matters concerning women.

1990-1995

The System-wide Medium-term Plan for Women and Development adopted by ECOSOC in 1987 comes on-stream. It is based on the FLS as well as various programmes and plans already adopted in several UN organizations, and marks the first time that all UN agencies and organisations are given tasks to implement for one particular aim.

1995

Fourth World Conference on Women and NGO Forum on Women, Beijing, China.

1995-2000+

A Second System-wide Medium-Term Plan for Women and Development is now being prepared. This will ensure that the process for implementation of the Nairobi FLS within the UN system is secure beyond the deadline of 2000.

CEDAW - Convention on the Elimination of All Forms of Discrimination Against Women, 1979:

LEGALLY BINDING

The need to protect women's rights gained global recognition during the International decade for women (1975-1985). This recognition became international law when the UN General Assembly adopted the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

The Convention is the only legally binding international instrument dealing with the rights of women. Though States have the right to interpret any or all the Convention's 30 Articles in keeping with their culture and practice, Articles 18 and 24 commit them to work for the elimination of discrimination against women.

To ensure states are complying with their obligations, a 23 member Committee on the Elimination of Discrimination Against Women (CEDAW), monitors their progress. This Committee is made up of 23 experts who are elected in their personal capacities with a "high moral standing and competence in the fields covered by the Convention". Their position is secured by Articles 17, 20 and 21.

All States which have ratified CEDAW are bound to provide a

report within one year to the Committee on the progress made within the country. Following this, the country must report every four years on progress made.

The Convention has a Preamble and six sections. Of this the first four outline the areas in which states must work to eliminate discrimination while the last two deal with the logistics of ensuring the smooth functioning of the Committee.

The Convention can be a base on which to build a strategy to empower women. NGOs can monitor the government's claims to compliance with CEDAW. The process can be used by NGOs as a strategy to mobilise communities to fight for local rights.

Discrimination against women shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on the basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. (Article 1)

On 25 June 1993, India joined the club of nations which have ratified CEDAW, though with a declaration in respect of Article 16 (1&2) and a reservation in respect of Article 29 (1).

These pertain to India's policy of non-interference in the personal affairs of any community without its initiative and consent; difficulty in registration of marriages; and India is not bound by compulsory arbitration or adjudication by the International Court of Justice.

This commits India to work for the elimination of discrimination against women. India, like all other signatories, will have to present a report at the end of the first year and after that every four years. The report will document the country's progress in the elimination of discrimination. The first report is due in June 1994.

Policy Measures (Article 2)

"Discrimination against women in all its forms is condemned and the States parties agree to embody the principle of equality of men and women in their national constitutions, civil codes or other laws, to ensure the realisation of this principle; to adopt appropriate laws; to establish tribunals."

Human Rights (Article 3)

"States parties agree to take all appropriate measures including legislation, in all fields in order to guarantee women the basic human rights and fundamental freedoms on the same basis as men."

Political and Public Life (Article 7)

"Women shall, on equal terms with men, share in political and public life of the country, and shall have the right to vote, to be eligible for election, to participate in the formulation of government policy."

Education (Article 10)

"State Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education."

Employment (Article 11)

"Measures shall be taken to eliminate discrimination against women in the field of employment and to ensure right to work, the same employment opportunities, to free choice of profession and employment, to equal remuneration, including benefits, to social security and to health protection and safety in working conditions."

Health (Article 12)

"Measures are to be taken to eliminate discrimination in the field of health care to

ensure that women have equal access to health care service including those related to family planning."

Economic and Social Benefits (Article 13)

"Women shall have, on an equal basis with men, right to family benefits, bank loans and all forms of financial credit."

Rural Women (Article 14)

"Account shall be taken of the particular problems of women in rural areas and of the special roles they play in the economic survival of the family including unpaid work."

Law (Article 15)

"Women shall have equality with men before the law, have identical legal capacity regarding contracts, administration of property, and court and tribunal procedures."

Marriage (Article 16)

"States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women;

- to choose a spouse and to enter into marriage only with their free and full consent
- to responsibilities during marriage and at its dissolution
- to personal rights to choose a family name, a profession and an occupation."



Source:- Issues Towards Beijing Vol. No.1
March 1994.

CEDAW: Only a convention?

Sakuntala Narasimhan

Cedaw-now, what could that be? A bird (like jackdaw) or a tree (like cedar)? The sad fact is that so few among us know about this important Committee on the Elimination of Discrimination Against Women (CEDAW) that the UN has set up, after adopting a "Convention on the Elimination of All Forms of Discrimination Against Women", 15 years ago. India is among the 130 countries that have so far ratified this bill of rights – ratification means that the government accepts an obligation to initiate, and pursue, policies for the elimination of practices that result in discrimination against women.

This August, our government is supposed to report to CEDAW on the steps that have been taken, to implement the measures listed under 30 Articles of the convention document. The 23-member CEDAW committee, made up of women drawn from different countries, is required to examine the

reports sent in by various countries, and make suggestions for better implementation.

The reality, however, is that "most governments do not submit these reports on time" as it was pointed out by women activists at the two-day workshop on CEDAW held in Bangalore June 1994, under the aegis of the voluntary organisation *Visthar*. Our government has done precious little so far to publicise the convention, let alone work towards implementing its clauses. Besides, India signed only after registering its reservations over two of the Articles in this bill of rights for women. One is Article 5 (a), which refers to sex roles and stereotyping. "Social and cultural patterns must be modified to eliminate sex role stereotypes and notions of the inferiority or superiority of either sex". Article 16, refers to marriage and family law -- "equal rights and responsibilities with men in marriage and family relations".

Ratifying on the one hand, and expressing reservations over some of the important and basic provisions, on the other, betrays the indecisiveness that marks official approaches to the constitutional guarantees of equality, and promises of forbidding discrimination on grounds of sex. Activists point out that countries often sign such documents, either under international pressure, or because they want to be seen as 'progressive'. That is why it is important that the public, especially voluntary organisations working for women's progress, should know about CEDAW, and generate sufficient public pressure to see that the government not only translates the convention into real changes in practice, but also sends a truthful report to the international body.

While expressing reservations over Article 16, our government has said that it cannot agree to that clause – about women's equal rights within the family and marriage – "unless the community itself is willing to agree to this", meaning that we, as a society, may not be ready to implement this concept of intrafamilial equality.

Is that true? How do we know? Perhaps it is time for some lawyer to file a writ petition in the Supreme Court asking the government what it was doing to find out what the community wants.

Part two of Article 16 call for compulsory registration of all marriages which is something that several activists have been asking for, for a long time, to protect women's interests.

Our government has declared that it does not have the resources to carry out registration of all marriages. But surely it could initiate publicity campaigns urging citizens to have all marriages registered, just as it is urging people to practise family planning, through advertisements, campaigns and carrot-and-stick strategies? Voluntary groups in Karnataka are reported to be planning

to draft a report, on how matters stand, vis-a-vis the Articles spelt out in the convention, and this report could be sent to the International Women's Rights Action Watch (IWRAP) which monitors compliance under the convention worldwide.

It was at the Vienna Declaration of Human Rights that the idea of women's rights being very much a part of human rights was spelt out by NGOs. And yet, of all the conventions have been so far ratified by countries around the world, this one on the rights of women is the one which has drawn the largest number of reservations from signatory countries! The convention on the rights of children, which was introduced ten years after this one on women's rights, got far more publicity and action, in most countries. Pointing out that in a sense, the government's apathy towards a con-

vention that it has itself signed and ratified, makes it, by default, one of the leading violators of women's rights and the perpetrator of discrimination on grounds of sex, voluntary groups in Bangladesh are fighting to remove the reservations declared by their government (listing their objections) while signing the convention. Nepal ratified

the convention two years ago, and now a lawyer there has used it to challenge maintenance laws for women which go contrary to what the convention says.

Botswana has signed but not yet ratified. A woman of that country, who is married to an American and therefore has been told that her children cannot enjoy certain citizenship rights because the mother's citizenship does not count the same way as the father's, has gone to court, claiming that since the country has signed the convention's bill of rights promising women equal rights without gender-based discrimination, it cannot apply such prejudiced rules. Articles of the convention demands equal rights to children's nationality. Many Islamic countries have also ratified the convention, but with reservations over the *shariat* though the con-

At the Vienna Declaration on Human Rights the idea of women's rights being a part of human rights was highlighted. And it is women's rights which is drawing reservations from signatory nations.

vention specifically prohibits discrimination against women on the basis of religion. Such partial or reserved ratification makes no sense. One is either for it – in which case, one accepts the concept of the right to dignity as individuals irrespective of one's sex, or one is against it – in which case, signing makes no sense. And yet, this is how politics works, even at the international level, leaving many fancy pronouncements as mere paper declarations, while the reality is something quite different.

Since it is an international treaty, matters relating to CEDAW come under the ministry of external affairs. But it passes the buck to the department of women and child welfare, because the convention is about women's rights. And, the report submitted by this department can be killed by the ministry if it disagrees with any part of its contents!

What the convention calls for is the removal of any restrictions, exclusions and distinctions made on grounds of sex, which prevent women from enjoying human rights and fundamental freedoms (political, civil, special and economic). One normally thinks of human rights only in terms of political or civil rights, but activists at this workshop pointed out how there are several, invisible and complex violations of rights on a daily basis that never get reckoned even though they make for a mesh of interconnected handicaps imposed on women. Some of the Articles of the convention make interesting reading.

Article 4, for instance, requires signatory governments to ensure that "family education teaches that both men and women share a common role in raising children". Splendid – but who takes charge of this "family education", who monitors it, or implements it, and through what methods? If

the government has given any thought to it, we the people certainly do not know yet. Article 13 refers to equal rights "to participate in recreational activities, sports and cultural life". While no one can have any quarrel with the spirit behind such a declaration, does it mean governments have to ensure that women get enough time off from family burdens, to be able to indulge in sports or other pastimes? Article 14 refers to the need to recognise the importance of unpaid work put in "by rural women" – but what about the unpaid work that even urban women put in, as housework? What has happened is that even in the drawing up of an ambitious and well-intentioned bill of rights at the international level, the patriarchal perspective still dominates and dictates, without sufficient thought given to the women's perspectives.

Article 15 demands the right "to choose one's residence and domicile" – but culturally, the universal practice is for the woman to follow her husband wherever he happens to go for work. Infact, we even have a few supreme court judgments declaring that a wife has an obligation to follow her husband in domicile. A bill of rights calling for equality thus calls into question several cultural and deep-seated practices, that will need not just government action and 'resolution passing', but massive social action, for change. Such a change can only come about if we, as individuals and voluntary groups, are kept aware of developments like this convention, and the action that it calls for to be made meaningful.

More information on CEDAW can be had from the UN Information Office, New York, or IRAW, Humphrey Institute of Public Affairs, 301, 19th Ave. South, Minneapolis MN 55155, USA.

Source: Deccan Herald (Bangalore) - July 10, 1994.

The Important Role of NGOs in Convention Monitoring and Implementation

Though women's NGOs have had a strong influence on CEDAW's general recommendations, the extent and quality of NGO influence in the country reporting and review process and on the election of CEDAW members has been limited. Effective monitoring of Convention implementation and establishment of international standards of equality depend on deeper involvement of NGOs in the entire process. Many NGOs are very effective on the local and national levels and understand the common problems of women worldwide. However, they are frequently so involved in what happens at the grass roots and national levels that they forget or neglect the international. It can be argued that concentration on the grass roots level has limited long term effectiveness unless information and success stories are brought to the national and international levels.

The process of change--Convention monitoring and implementation-- is circular and interactive.

CEDAW members, as noted above, have consistently requested independent information from NGOs on the legal and practical situation of women, especially information on the situation of poor women, in ratifying countries, and on changes in laws and policies that conform with Convention principles. This information is crucial to complete or round out the picture presented by governments. CEDAW members cannot be expected to be expert on every article of the Convention, in every country in every region. Information on the status of women and violations of their rights must be transmitted from local groups to national and international groups for presentation to CEDAW members and then the results of the CEDAW reviews, including their suggestions and recommendations, need to be transmitted back again, completing the circle.

As the violence recommendations demonstrate, women's groups can be effective when they concentrate on a common problem. They can also be very effective when they understand national, in-

ternational and intergovernmental systems and begin to use them to put new ideas into effect. In shaping public opinion numbers and organisations count. In influencing governments and international institutions, understanding the structure and functions of the institutions and how they work makes achieving reform goals easier and quicker. Knowledge is power.

NGOs and the government reporting process

Governments reports, as noted above, are written within governments, by government officials, and they are often considered—and are—an extra burden for the government. However, the reports can serve multiple purposes. In addition to meeting the treaty obligation, they can also serve as needs assessments and guides for development planning and project design by the government, development aid donors and women's groups.

Frequently the official assigned to write the government report has little knowledge, information, or interest in the reporting process, and little interest or knowledge of the legal and practical situation of women in the country. This is an opportunity for NGOs to offer assistance. Some NGO activists know more about the legal and practical situation of women in the country or where information can be found than does the government official. These activists—and the researchers they may be in touch with—can discreetly offer advice on where data and information can be found. Even if the offer of help is refused, the official then knows and outside group is interested and aware. Even though they rarely admit it publicly, government officials are extremely sensitive to public scrutiny and public opinion. The best government officials collaborate with interested NGOs, finding them a source of help; the worst are the most sensitive to public scrutiny.

Simply helping the government find information sources becomes a useful entry point in the process. In Great Britain, Canada and other countries women's groups have put together coalitions to monitor and assist in government reporting. When a government knows it is being monitored by

women's groups and others, it may put extra resources—staff, time or by hiring consultants—to meet the reporting requirements. After it is completed, the report, as indicated above, can serve multiple purpose both for the government and for NGOs.

Another way NGOs in ratifying countries can evidence interest in the reporting process is to contact their national women's bureau or foreign ministry to inquire about the status of the government's current report or request a copy of the last report to CEDAW, (CEDAW has consistently urged countries to distribute their reports to women's groups and others within the country.) This puts the government on notice that NGOs are aware of the reporting system and interested in what the government is reporting. If the report can be obtained from the government, it will serve as a useful tool for NGOs no matter what it says. If it is good, it will provide useful information. If it is incomplete or evasive, suggestions can be made for improving the next one. Such suggestions should be constructive, made with the understanding that governments can be analytical about obstacle to change or progress, they can indicate that problems exist, but they will not criticize themselves in their own reports. Some governments have used the IRAW manual, *Assessing the Status of Women: A Guide to Reporting Using the Convention...* at the suggestion of the U.N. Division for the Advancement of Women or of NGOs. This manual was written for both governments and NGOs. It is organized according to the articles of the Convention and poses questions that should be answered under each article. For example, under education the first two questions are: Have legislative or other measures been taken to ensure equal access to education for men and women? Is there equal access to education *in practice*? The Division for the Advancement of Women at the Vienna International Centre, the Commonwealth Secretariat in London¹ and other U.N. agencies all have publications and technical people who can be useful sources of information and assistance. The U.N. Economic and Social Commission for Asia and the Pacific, for example, published a booklet in 1989

called *Guidelines on Upgrading the Legal Status of Women* which might be very useful for governments.

Independent reporting to CEDAW

An even more important and effective way for NGOs to assist in the monitoring process is to put together a short, independent NGO report on one or more of the major problems of women in the country and submit it to CEDAW directly or through IWRAW or another human rights group. The Convention can either be looked at, article by article, from women citizens point of view or groups interested in a particular issue covered by the Convention--education, health, employment, etc.--can document and describe the major problems for women are pertaining to that issue or article. Because CEDAW members review numerous country reports each year, and meet only once a year, they do not have the time to read long, detailed NGO reports on each country. What CEDAW members need--and what NGOs can provide--is short, concise, factual information on the most important areas of discrimination against women, or particular group of women, in a ratifying country. The process of providing independent information to CEDAW must be strengthened and continued if CEDAW's effectiveness is to be maintained and improved.

IWRAW/CEDAW reports

IWRAW began, most systematically with the 1992 session, submitting to CEDAW short reports on the countries scheduled to be reviewed. Other groups such as Amnesty International, the International League for Human Rights, and coalitions of national women's organisations have also submitted independent information to CEDAW in the past. Materials for the IWRAW reports are obtained from a variety of sources--IWRAW network members, local, national and international NGOs, researchers, organisations interested in specific articles, and from publications of women's and other organisations.

To be most effective, independent information should reach CEDAW's pre-session working group members before they meet, but material presented at the time of the meeting is also effective. Material

on countries coming up for review can also be sent to IWRAW or other organisations who are willing to submit it to CEDAW members. The source of the independent information does not need to be publicly stated but any group submitting information from a secondary source must be confident that the information has been documented.

NGO interaction with CEDAW members

CEDAW member's expertise is built and maintained in many ways, through interaction with activists, through research, reading, experience, and information exchanges. The list of ways NGOs can interact with CEDAW members is limited only by lack of imagination and resources--time being an important resource. Inviting CEDAW members from one's own region or others to speak before NGO meetings or attend conferences; holding seminars or workshops on Convention implementation and reporting with CEDAW members as speakers or resource persons; and honouring CEDAW members for their work are only a few of the ways in which NGOs can interact with CEDAW members and assist them in maintaining and improving their expertise. Putting regional CEDAW members--or the whole CEDAW membership--on the mailing list for newsletters or reports from your organisation is another means. IWRAW tries to maintain an address list of all CEDAW members, and is willing to share it, or members can be reached through the embassy of the country in which they reside.

Observing CEDAW sessions

NGO observers at the CEDAW review sessions have an important effect. Their presence indicates to CEDAW, governments and U.N. staff that the Convention and its implementation are being monitored. It is assumed NGO observers report on the review sessions to others. When CEDAW first began meeting only a few NGOs attended some of the review sessions. By 1992 over thirty NGO representatives were present during many of the sessions as were representatives of governments who were coming up for review later. Ideally national and international NGOs would have observers from the countries under review that particular year who could report back on exactly what

went on during the review. Publicizing the results of CEDAW's reviews and recommendations will create a more thorough understanding of the dynamics of the whole process and generate interest in it.

Influencing nominations and elections of members to CEDAW

Much of the expertise on matters covered by the Convention is found among NGO activists. If CEDAW is to maintain its effectiveness, NGOs in ratifying countries must not only be aware of who is serving on CEDAW from their country or region but should propose and advocate for good candidates for nomination by their governments when there is a vacancy. Ratifying countries may nominate only one candidate each time there is an election. Activists knowledgeable and experienced in women's rights should put themselves or other activists forward as candidates and obtain letters and other indications of support from NGOs who are recognised and respected by the government. Though there is no salary involved, CEDAW members are paid expenses and candidates must be willing to give of their time and knowledge. It is not an easy office to hold, but it can be a very satisfying and rewarding position.

National and regional conferences on the Convention and its implications

National and regional conferences on the Convention, its implementation and its implications for law and policy reform are another way of learning about and influencing the process. The 1993 world conference on human rights and the 1995 world women's conference provide excellent opportunities to advocate for women's legal rights and Convention implementation on the international level, but the momentum for reform needs to be generated from local and national levels. The United Nations regional economic and social commissions traditionally hold regional conferences preceding any world conference. Government delegations attend these conferences and some governments are willing to put NGO representatives on their delegations.

Frequently NGOs with U.N. consultative status organise parallel meetings or forums in conjunction with these regional conferences. Some

NGOs have begun to hold independent meetings before a world conference to develop and publicize the issues from an NGO perspective, or to develop strategies for influencing the government delegates who attend the U.N. conference. In preparation for the 1993 and 1995 world conference, national and regional NGO meetings are being welcomed and encouraged by the U.N. system. For example, the U.N. Non-Governmental Liaison Service, in collaboration with an interested group of international NGOs in Geneva, has prepared a book on women's human rights for the 1993 conference. The women's Convention, legal reform and legal literacy and services are high on the agenda of both conferences. They will only be so if NGOs draw attention to the conferences by holding national and regional meetings.

"Satellite meetings"--otherwise known as NGO preparatory meetings--can be organised by any group at any level-local, national and international. These meetings can generate ideas and proposals for consideration at the conferences. The ideas and proposals can be given to national delegates who will attend the conferences or suggestions can be made through the media, thus also emphasizing for the general public that such conferences are being held and that local and national groups are aware of them. Questions to be considered at preparatory meetings might include: What is this women's treaty and why is it important? What are the issues in the nation or region that most need attention if improvements in the status of women is the goal? Why are these issues important? How can they best be presented both to the delegates and to the public? What background information and materials would influence delegates to those conferences? What progress have women made and how did women organise to accomplish particular goals? All these questions should be considered in preparing for the world conferences or in organizing local and national meetings preceding these conferences.

Convention implementation takes place at national and local levels

The Women's convention may be monitored at the international level but law and policy reform in conformance with the Convention's principles

is basically a national--and sometimes local--endeavor. Discrimination against women is an international phenomenon, but eliminating it requires action where the laws are made and people live. Progress in measuring how and where eliminating discrimination is taking place is the work of CEDAW and international NGOs. Publicizing progress helps change public opinion internationally and locally but women must know their rights and claim them. Research is necessary to understand the interrelationships between law, custom and tradition and how changes in law and policies affect behaviour.

There are many examples, worldwide, of women's legal literacy and service projects and increasingly there are regional and national projects publicizing the Convention, studying laws, including marriage and family laws, and their discriminatory effects; and developing proposals for change. The international network called Women Living Under Muslim Laws is only one example of a group combining research and advocacy. In Sao Paulo state in Brazil a year long Convention implementation project is underway which looks at law and life--comparing the law with women's situation in daily life. In Chile women's groups are meeting with public officials to discuss the Convention and advocate for specific legal changes.

The Southern African Women and Law Research Network is studying customary law and its effects. Plans are underway to start Convention projects in East and West Africa.

The power and determination of women's organisations must be demonstrated again and again until all forms of discrimination against women are eliminated and violence is no longer the means by which women are intimidated, demeaned and subordinated. This will take time, a long time, but a beginning has been made and women's collective power has been demonstrated. Building on the momentum that has been generated is the next task. That task involves understanding that strong links must be built and maintained between the local, national and international levels, between CEDAW and NGOs, between researchers and advocates, between policy makers and women's groups and finally, between women and men who share the goal of eliminating discrimination against women and achieving justice for all.

Note:

1. The Commonwealth Secretariat and IWRAW are collaborating on a revised manual on reporting under the Convention.

Assessing the Status of WOMEN

A Guide to Reporting Using the Convention on the Elimination of All Forms of Discrimination Against Women

By the International Women's Rights Action Watch (IWRAP)

INTRODUCTION

This article is about the manual which designed to help individuals and groups assess and report on the status of women in their country using the Convention on the Elimination of All Forms of Discrimination Against Women ("The Convention") as a framework.

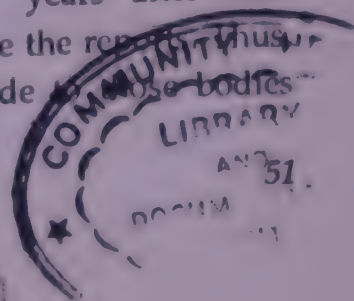
Essentially a bill of rights for women, the Convention sets forth internationally accepted standards for achieving equal rights for women. By July, 1988, 94 countries had ratified or acceded to the Convention, obligating them to pursue a policy of eliminating discrimination against women and to report on their progress to the Committee on the Elimination of Discrimination Against Women.

The Convention consists of a preamble, 16 articles setting forth substantive actions that should be taken to eliminate discrimination against women, and 12 articles describing reporting requirements and administrative machinery. For each of the substantive articles, this manual poses a series of questions that can be asked, and suggests documentation that can be provided, to assess both the legal and actual status of women.

Governments that ratify or accede to the Convention are obligated to submit reports on progress to CEDAW (the Committee on the Elimination of Discrimination Against Women) within one year of ratification and every four years after that. CEDAW meets yearly to examine the reports. Thus, this manual can serve as a guide to those bodies.

Legal Perspectives

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officially charged with drafting the report to CEDAW.

This manual can also serve as a framework for non-governmental organisations (NGOs) - such as women's rights groups and human rights organisations - assessing the status of women. NGOs have a particularly valuable role to play. From their independent perspective, they can collaborate on the official report to CEDAW, they can comment on or criticise the official report, or they can write their own report. Independent of CEDAW, women's or human rights organisations may choose to examine the status of women in their country and to issue a report on it. The manual indicates the kind of questions that ought to be asked, and answered, whatever the nature of the report or the organisation doing it.

Assessing the Status of Women

In 1983 and 1988 the Committee on the Elimination of Discrimination Against Women (CEDAW) adopted guidelines for more uniform reporting on the status of women. These guidelines furnish a useful frame of reference both for governments submitting formal reports to CEDAW and for other groups assessing the status of women. The guidelines suggest that reports be divided into two parts.

Under the CEDAW format, Part One should provide a general framework by giving background information about the country, a description of the institutions charged with enforcing women's rights within the country, the means used to improve and protect the status of women, and the remedies available to women. It should also discuss the effect of ratification of the Convention, if applicable.

Part Two should examine each article of the Convention and furnish specific information about legal and administrative provisions in force, developments that have taken place since ratification, legal or practical obstacles, and any other relevant information. This section should include information on the laws as they are written and as they are administered.

In addition, CEDAW has made some general suggestions for preparation of reports:

- *Use statistics whenever possible to provide concrete information on the status of women, including statistics that show changes that have occurred.*
- *Give illustrative examples, where possible, of discrimination and corrective measures.*
- *In addition to laws and regulations, describe the actual, real-life conditions for women.*
- *Discuss obstacles to improving the status of women.*
- *Describe any differences in the status of women from different ethnic groups, socio-economic classes, religions and geographic regions.*
- *Highlight the effects of particular circumstances, such as war or drought, on the status of women.*

The Country Context

Individuals or groups reporting on the status of women can begin with a general description of the country and the ways in which it approaches eliminating discrimination against women. As a minimum, the following information ought to be provided:

- *Population data, including (1) total population percent male and female; (2) number of persons per square kilometer or mile; (3) percent male and female by relevant age groups (e.g., 0-14, 15-59, 60 and over); (4) percent total population which is rural, male and female; (5) important changes in population, such as shifts in the percentage of people living in rural and urban areas.*
- *The date on which the Convention came into force and a description of how it is being enforced.*
- *The general state of the economy, including the gross national product (GNP), per capita income and distribution of income.*
- *A description of the political and legal systems.*
- *A description of the religions of the country, including the percentage of the population and geographical distribution of each, if relevant.*

- A description of the governmental and non-governmental institutions that promote and protect the advancement of women.
- The legal mechanisms, remedies or resources available to women who have experienced discrimination.

Reporting Under the Specific Articles of the Convention

The 16 substantive articles of the Convention provide a comprehensive guide to actions that can be taken to eliminate discrimination against women. The following pages summarise the substance of each article (except articles 1-3 which have been combined) and then raise a number of questions. The answers to these questions, together with supporting data, should furnish an accurate picture of the current state of, and trends in, women's status.

Article 1-3

Policy and Legal Measures to Eliminate Discrimination and to Ensure full Development and Advancement of Women

Article 1 defines discrimination as "any discrimination, exclusion or restriction made on the basis of sex which *has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on the basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.*" Article 2 requires governments to eliminate discrimination against women and sets forth their obligations to promote equality through constitutional, legal, and other appropriate means. Article 3 requires governments to take positive measures to ensure the full development and advancement of women.

- Are there policy statements or laws that define discrimination against women? What do they say?
- Is the definition of discrimination sufficiently broad or interpreted broadly enough to cover practices which are discriminatory in their effect, even if they are not intended to discriminate?
- Does the constitution, if there is one, include a guarantee of non-discrimination on the basis of sex or a guarantee of equality? If not, what

work is being done to amend the Constitution and what are the obstacles to such an amendment?

- What laws or administrative provisions, if any, discriminate against women? Are they in the process of being repealed or changed?
- What legislative or administrative measures have been adopted to prohibit or to eliminate discrimination against women?
- Are there any penalties, such as fines or loss of government contracts, imposed for discrimination against women? If so, what are they? Have they been applied?
- Do courts or other tribunals affirm or protect the rights of women? How many cases of discrimination have been brought before the courts or other government bodies in the last four years? How were they decided?
- Are there policies or practices of government or other public institutions that discriminate against women?
- What measures if any, have been adopted to advance or improve the situation of women or to guarantee women fundamental freedom and equal rights?
- What are the practical obstacles that prevent women from attaining their full development, fundamental freedoms, or equal rights?

Article 4

Temporary Measures (Affirmative Action) to Accelerate Equality Between Men and Women

In this article, the Convention states that temporary measures to accelerate *de facto* equality should not be considered discriminatory.

- What positive temporary (affirmative action) measures, if any, have been adopted to achieve equality between men and women? What are the inequalities that they were meant to correct?
- How are these affirmative action measures enforced? What have their effects been?
- Are they considered to be non-discriminatory under the law?
- What enforcement mechanisms have been established? How do they operate?

Article 5

Sex Roles and Stereotyping

Article 5 Convention addresses social and cultural patterns that lead to discrimination and to stereotyped roles for men and women. It emphasises the responsibility of both men and women in raising children.

- What cultural and traditional practices, if any, hamper women's advancement in society?
- Does religion or custom impose practices or beliefs that interfere with improving the status of women? If yes, what are they?
- What roles are men and women expected to play in society and in the family?
- What measures have been taken to change social and cultural patterns that lead to stereotyping or reinforcing the idea of the inferiority of women?
- Are males and females stereotyped in school boards or in the media?
- What efforts are being made to eliminate the stereotyping of men and women? What are the obstacles to eliminating these stereotypes?
- Who is considered, by law or custom, to be the "head of the household"?
- Are there certain kinds of work that are considered as "men's work" or "women's work"? What are the percentages of men and women in these kinds of work?
- What kinds of work are women forbidden to do either by law or custom?
- Are girls and boys expected to do different tasks in the home or at school?
- Who is responsible for the care of the children?
- In divorce cases, who is typically given custody of the children and why?

Article 6

Traffic and Prostitution of Women

Article 6 requires states to take measures to suppress all forms of traffic in women and exploitation of prostitution of women.

- What is the prevailing social attitude towards prostitution?

- What are the laws on traffic in women and exploitation of prostitution?
- If prostitution is legal, how are prostitutes and their clients treated under the law? Are prostitutes licensed or regulated in any way? What laws, if any, are there concerning child prostitution?
- If prostitution is illegal, is the law enforced? Is it enforced only against women or against men as well?
- Is the selling of sexual services by a third person illegal? Is it illegal to sell women to other countries to be prostitutes? If yes, how are these laws enforced?
- What obstacles are there to eliminating the exploitation of prostitution and traffic in women?

Article 7

Political and Public Life

Article 7 requires governments to take all appropriate measures to eliminate discrimination against women in politics or political life.

- Do women have the right to vote in all elections on equal terms with men? If so, what percentage of women vote as compared to men?
- Are there any property or literacy or other requirements for voting? If so, do these requirements eliminate women or have a greater effect on women's ability to vote than on men's?
- Are women eligible to be candidates for elected positions on the same terms as men? What percentages of candidates are women?
- List the high public offices and political positions held by women. Include both appointed and elected positions.
- Do women have the same right as men to participate in political parties, in non-governmental organisations and associations concerned with the public and political life of the country? Do they participate in fact?
- What are the obstacles to women's full participation in political and public life?
- What measures have been taken to ensure that women participate in the design and implementation of development planning at all levels?
- Are women discriminated against or subject to human rights violations because of their political

activities as members of women's organisations? If yes, please give details.

- Are women political prisoners or detainees subject to sexual abuse? If yes, please document.

Article 8

International Representation and Participation

Article 8 states that women should have equal opportunity to serve as representatives of their country and as participants in the work of international organisations.

- Do women have the right and the opportunity to represent the government on an international level and to participate in the work of international organisations?
- What percentage of ambassadors are women? What percentage of other representatives of foreign governments or international organisations are women? Where do they serve?
- Are there instances where women, because of their gender, have been denied their opportunity to represent the country or to participate in the work of international organisations? Please describe.

Article 9

Nationality

Article 9 grants women equal rights with men to acquire, change or retain their nationality.

- Do women have equal rights with men to acquire, change or retain their nationality? What social, cultural or economic factors affect a woman's exercise of these rights?
- Does marriage to a non-citizen or a change of nationality by the husband affect a woman's nationality in any way?
- Is a person's citizenship determined by birth, by parentage, by marriage, or by some combination of these factors? If citizenship is determined by parentage, does a mother's citizenship carry equal weight with that of the father?
- Can minor children travel on their mother's passport or only their father's? Is the father's consent required to name children on their mother's passport or to leave the country with them?

- Can a woman obtain a passport or travel without her husband's permission?

Article 10

Education

This article requires governments to take all appropriate measures to eliminate discrimination against women in education. When reporting on this topic, it is important to indicate both the situation at the present time and progress, if any, over the past years. It is appropriate to begin this section with a description of the educational system.

- Have legislative or other measures been taken to ensure equal access to education for men and women?
- Is there equal access to education in practice?
- What percentage of primary, secondary, and university graduates are female?
- What are the overall literacy rates for males and females? Between ages 15-24? Ages 25-44? Ages 45 and above?
- In schools that are not co-educational, are the curricula, examinations, teaching staff, school premises and equipment of the same quality for boys and girls? If not, describe the differences. For example, compare student-teacher ratios, subjects taught, per capita expenditures for male and female students.
- If the educational system places students into different branches or "tracks" of studies, are girls and boys equally represented in such tracks? Are girls encouraged to pursue traditionally "male" studies? How?
- What is the percentage of women graduating in the fields of medicine? Engineering? Law? Sciences? Agriculture?
- What percentage of all available scholarships, awards, or grants are given to women at primary, secondary, and post-secondary levels?
- What percentage of the students in adult education and literacy programmes are women?
- Are there laws and policies that attempt to keep girls in school? Please describe.
- What educational programmes are available for girls and women who have left school before graduation?

- What are the dropout rates for women at all levels of education? What are the major causes of girls or women discontinuing their education?
- What percentage of all teachers at the primary level are women? At the secondary level? At the university level?
- What percentage of school principals and heads of departments are women?
- Do women have the same access as men to family life education, including family planning?
- Do girls have the same opportunities as boys to participate in sports and physical education in the schools? Is it culturally acceptable for them to participate?

Article 11

Employment

This article requires governments to take all appropriate measures to eliminate discrimination against women in employment. It is desirable to discuss both the current situation and the way in which it has changed over time.

- What provisions exist to eliminate discrimination against women in employment? Are these provisions enforced. How?
- What percentage of the total workforce is women? Of the total workforce between ages 15-24? Ages 25-44? Ages 45 and older?
- Are there professions which, by law or custom, tend to be filled predominantly by, or closed to, women? What are they?
- Are women, by law, entitled to receive equal pay for equal work or work of the same value as men? What percentage of men's wages do women receive? What ways are available to challenge discrimination in pay? Have these been successfully used?
- Is work done by women in the home counted as part of the work done in the labour force?
- Is unpaid agricultural work counted as part of the country's gross national product?
- What is the retirement age for men and women? Do men and women contribute the same amounts towards their pensions?
- Do wives benefit from pension plans held by their husbands and vice versa?

- Do women, in law and practice, have the same rights as men to:
 - old age or pension benefits?
 - disability benefits?
 - job training?
 - promotions?
 - retirement?
 - paid annual leave or vacation?
 - any other employment-related benefit?
- What are the provisions for paternity and maternity leave?
- Do women have the right to maternity leave without loss of employment, seniority or social allowances? Is maternity leave paid? If so, by whom? What penalties exist for violations? Are they enforced?
- Is dismissal of women on the grounds of pregnancy, maternity leave, or marital status prohibited by law or policy? Is it done in practice?
- How are women's safety and health, including reproductive health, protected in the workplace? Do these laws and practices discriminate against women?
- What types of child care are available for working women? Does government support, financially or otherwise, child care arrangements? Is child care adequate?
- What percentage of employers provide child care? What percentage of children 0-3 are in child care? Ages 3-6? How are school-age children cared for when mothers work longer than the school day?
- Are nursing breaks for breast-feeding mothers required by law? In practice, are they provided?

Article 12

Health

Under this provision, states agree to take all appropriate measures to provide women and men equal access to health services, including family planning.

- What health facilities and personnel are available for women? This could include hospitals, clinics, health posts and other facilities as well as physicians, nurses, auxiliary health personnel, family planning workers and community agents.
- What are the major causes of female mortality and morbidity?

- What is the maternal mortality rate?
- What are the infant and child mortality rates for boys and for girls? What are the major causes of infant and child mortality and morbidity for boys and for girls?
- What is the average life expectancy for men and women?
- What are the crude birth rates and crude death rates for men and women?
- What percentage of women receive prenatal care?
- What is the average number of live births per woman?
- What is the unmet need for contraception?
- What is the prevalence of contraception, by method?
- What legal or cultural obstacles are there to women receiving health care services, including family planning?
- Is the husband's authorisation required, either by law or in practice, before a married woman can receive health services including family planning?
- Is abortion legal? If so, under what circumstances? Is the cost of abortion covered under national insurance or social security? Can poor women receive free or subsidised abortions? If abortion is legal, how available are services in practice?
- If abortion is not legal, is it performed anyway? What statistics are available for death and/or illness due or related to abortion? What provisions are made for care of women with incomplete abortions?
- Is female circumcision practiced? If yes, under what circumstances? Is it legal?
- What laws exist regarding violence against family members? Have they been used successfully by women?

Article 13

Social and Economic Benefits

Article 13 seeks to ensure that women have equal access to family benefits, to loans and credit, and to the enjoyment of all aspects of recreational and cultural life.

- Do women, particularly married women, have access to loans, mortgages and other forms of financial credit? If not, what are the constraints? Do they need the consent of their husbands or another male to obtain credit?
- Do married women, in their own right or as mothers, have access on their own to family benefits such as: children's allowances, housing allowances, public housing, health insurance or coverage, or other government subsidies or allowances? Do unmarried and married women have the same access to these benefits?
- What legal or cultural obstacles are there to the full participation of women in recreational activities, sports and other aspects of cultural life?

Article 14

Rural Women

This article acknowledges the special problems faced by rural women and the significant roles that they play in the economic survival of their families and communities, including their work in the non-monetised sectors of the economy.

- What special programmes, if any, have been developed to meet the needs of rural women?
- How does the mortality rate of rural women compare to that of urban women? The maternal mortality rate? Life expectancy? Nutritional status? Percent receiving prenatal care? Family planning services?
- What are the infant mortality rates in rural compared to urban areas?
- Do rural women have access to social security programmes? How do they qualify for coverage?
- In rural areas, are married, widowed, divorced, non-married and childless women treated differently from each other?
- How does the availability of health services, including family planning, in rural areas compare to those in urban areas?
- What percentage of rural girls and women are enrolled in primary, secondary and university level education? How do these percentages compare with urban enrollment?
- What percentage of rural women ages 15-24 are illiterate? Ages 25-44? How do these percentages compare with urban ones?

- What type of work is generally done by rural women (including cooking, cleaning, water carrying, childcare, marketing, etc.)?
- Can women hold title to land?
- What percentage of agricultural work in rural areas is done by women? Is it counted in the economic statistics (such as GNP) of the country?
- Does the state recognise the right of rural women to organise self-help groups and to participate in cooperatives and other economic or development programmes as individuals? Or is this right restricted to family membership?
- Are there women's self-help groups or cooperatives in rural areas? Describe briefly.
- What community activities do rural women participate in? Are there any religious or cultural traditions which keep women from participating?
- What percentage of agricultural credit and loans in rural areas are actually given to women?
- Can women use rural marketing facilities to sell their goods? What percent of these facilities are used by women?
- Are agricultural extension services designed to reach women directly?

Article 15

Equality before the Law

This article commits states to take all appropriate measures to accord women equality with men under the law.

- Are women treated equally in courts?
- Can women sue and be sued in their own name?
- Can female attorneys represent clients in courts?
- Can women serve as juries?
- Can women serve as witnesses? Does their testimony carry the same weight as that of men?
- Do women have equal access to legal services? Can they get free legal help if they are unable to pay for it?
- Do women have the right to make contracts in their own name (including credit, real estate and commercial transactions)?
- Do women have the right to administer property without interference or consent by a male,

regardless of whether they acquire it during marriage, bring it into marriage or are unmarried?

- Can women be executors or administrators of estates?
- Has the country outlawed, by judicial decision or statute, contracts that restrict women's legal capacity?
- Do women have the right to choose the place where they live? Do traditions or customs restrict women from exercising this right?

Article 16

Marriage and Family Law

Article 16 seeks to eliminate discrimination against women within marriage and the family.

- Are family relations governed by civil law, religious laws, customary laws, or a combination of these? Please explain.
- Do women have the same right as men to choose a spouse?
- Do women have the right to enter into marriage only with their free and full consent? If so, how is this right enforced?
- How are betrothals made? Do traditional customs apply? If so, what are they and how do they affect women's choice in marriage?
- Is there a minimum age at marriage for males and females? What is it? Is it enforced? If so, how? Is child marriage a matter of custom in particular areas or among particular groups? Is it legally recognised?
- Is the age of majority different for males and females?
- Is registration of marriages and divorces required by law?
- Is it customary or legal to pay a bride price or dowry? If yes, what is its effect on marriage?
- Do men and women have the same rights and responsibilities during marriage? If not, how do these differ, both in law and in practice?
- Is polygyny (one man having more than one wife) permitted by law? Is it done in practice? What percentage of marriages are polygynous?
- In polygynous marriages, what are the rights and responsibilities of husbands towards wives and wives towards husbands?

- What are the rights and responsibilities of men and women living in union (i.e., living together but not legally married) towards each other and towards their children?
- Do women have the right to decide freely and responsibly the number and spacing of their children? Do they have access, without having to ask anyone's permission, to information and services for family planning?
- What is the law and practice concerning abuse of wives or live-in companions?
- Do women have the same rights as men, regardless of their marital status, to make decisions about the upbringing of their children?
- Do women have the same rights as men in matters of guardianship, wardship, trusteeship and adoption of children?
- Do married women have an equal voice with their husbands in the management and disposition of property acquired during marriage?
- Do women have the same rights as men to choose a name, profession and occupation?
- Do women have the same rights as men to own, acquire, manage and dispose of property?
- Is divorce available to men and women on the same grounds? Is divorce by "renunciation" done in law or practice? Are divorces registered?
- Who generally retains custody of children after divorce? After death of a husband? Do the practical results in custody matters differ from the law as written?
- Are divorced husbands required to pay child support? Are child support orders enforced?
- What are the legal obligations to pay maintenance to a divorced husband or wife?
- How is property among former spouses divided after divorce? Is a woman's work in the home, or her unpaid agricultural labour, counted as a contribution towards the value of the property?
- Legally and in practice, what are the rights and obligations of widows? In what way, if any, do they differ from the rights and obligations of widowers?
- Do widows and daughters of a deceased parent have a legal right to inherit land and other property if there is no will? Can a widow or daughter receive property under a will?
- Do male and female children receive equal inheritances by law if there is no will?
- Is the levirate (widows having to marry the deceased husband's brother) practiced by groups?
- What percentage of households are headed by a female? What percentage of poor households are headed by a female?

Publicising Reports on the Status of Women

Reports on the status of women, whether they are reports to CEDAW or independent reports offer an unusual opportunity to increase awareness, to motivate people and, perhaps, to promote change. CEDAW has repeatedly emphasised the importance of giving the widest possible publicity to the Convention and to reports on the status of women.

- Has the Convention been translated into the local language(s)? What steps have been taken to make people aware of its provisions?
- Has the CEDAW report been translated into the local language(s)? What measures have been taken to ensure that people are aware of the content of report? Has the government made copies of the CEDAW report, or a summary of the report, available?
- What media coverage has been given to the Convention? To the report to CEDAW? To independent reports on the status of women?

CONVENTION

on the Elimination of all forms of Discrimination Against

WOMEN

the full and complete development of a country, the welfare of the world and the cause of peace require the maximum participation of women on equal terms with men in all fields

INTRODUCTION

On 18 December 1979, the Convention on the Elimination of All Forms of Discrimination against Women was adopted by the United Nations General Assembly. It entered into force as an international treaty on 3 September 1981 after the twentieth country had ratified it. By the tenth anniversary of the Convention in 1989, almost one hundred nations have agreed to be bound by its provisions.

The Convention was the culmination of more than thirty years of work by the United Nations Commission on the Status of Women, a body established in 1946 to monitor the situation of women and to promote women's rights. The Commission's work has been instrumental in bringing to light of all the areas in which women are denied equality with men. These efforts for the advancement of women have resulted in several declarations and conventions, of which the Convention on the Elimination of All Forms of Discrimination against Women is the central and most comprehensive document.

Among the international human rights treaties, the Convention takes an important place in bringing the female half of humanity into the focus of human rights concerns. The spirit of the Convention

is rooted in the goals of the United Nations: to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women. The present document spells out the meaning of equality and how it can be achieved. In so doing, the Convention establishes not only an international bill of rights for women, but also an agenda for action by countries to guarantee the enjoyment of those rights.

In its preamble, the Convention explicitly acknowledges that "extensive discrimination against women continues to exist", and emphasises that such discrimination "violates the principles of equality of rights and respect for human dignity". As defined in article 1, discrimination is understood as "any distinction, exclusion or restriction made on the basis of sex in the political, economic, social, cultural, civil or any other field". The Convention gives positive affirmation to the principle of equality by requiring States parties to take "all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men" (Article-3).

The agenda for equality is specified in fourteen subsequent articles. In its approach, the Convention covers three dimensions of the situation of women. Civil rights and the legal status of women are dealt within great detail. In addition, and unlike other human rights treaties, the Convention is also concerned with the dimension of human reproduction as well as with the impact of cultural factors on gender relations.

The legal status of women receives the broadest attention. Concern over the basic rights of political participation has not diminished since the adoption of the Convention on the Political Rights of Women in 1952. Its provisions, therefore, are restated in article 7 of the present document, whereby women are guaranteed the rights to vote, to hold public office and to exercise public functions. This includes equal rights for women to represent their countries at the international level (article 8). The Convention on the Nationality of Married Women-adopted in 1957-is integrated under article 9 providing for the statehood of women, irrespective of their marital status. The Convention, thereby, draws attention to the fact that often women's legal status has been linked to marriage, making them dependent on their husband's nationality rather than individuals in their own right. Articles 10, 11 and 13, respectively, affirm women's rights to non-discrimination in education, employment and economic and social activities. These demands are given special emphasis with regard to the situation of rural women, whose particular struggles and vital economic contributions as noted in article 14, warrant more attention in policy planning. Article 15 asserts the full equality of women in civil and business matters, demanding that all instruments directed of restricting women's legal capacity "shall be deemed null and void". Finally, in article 16, the Convention returns to the issue of marriage and family relations, asserting the equal rights and obligations of women and men with

regard to choice of spouse, parenthood, personal rights and command over property.

Aside from civil rights issues, the Convention also devotes major attention to a most vital concern of women, namely their reproductive rights. The preamble sets the tone by stating that "the role of women, procreation should not be a basis for discrimination". The link between discrimination and women's reproductive role is a matter of recurrent concern in the Convention. For example, it advocates, in article 5, "a proper understanding of maternity as a social function", demanding fully shared responsibility for child rearing by both sexes. Accordingly, provisions for maternity protection and child-care are proclaimed as essential rights and are incorporated into all areas of the Conven-

"the full and complete development of a country, the welfare of the world and the cause of peace require the maximum participation of Women on equal terms with men in all fields."

tion, whether dealing with employment, family law, health care or education. Society's obligation extends to offering social services, especially child-care facilities, that allow individuals to combine family responsibilities with work and participation in public life. Special measures for maternity protection are recommended and "shall not be considered discriminatory" (article 4). "The Convention

also affirms women's right to reproductive choice. Notably, it is the only human rights treaty to mention family planning. States parties are obliged to include advice on family planning in the education process (article 10.h) and to develop family codes that guarantee women's rights "to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights" (article 16.e).

The third general thrust of the Convention aims of enlarging our understanding of the concept of human rights, as it gives formal recognition to the influence of culture and tradition on restricting women's enjoyment of their fundamental rights. These forces take shape in stereotypes, customs and norms which give rise to the multitude of

legal, political and economic constraints on the advancement of women. Noting this interrelationship, the preamble of the Convention stresses "that a change in the traditional role of men as well as the role of women in society and in the family is needed to achieve full equality of men and women". States parties are therefore obliged to work towards the modification of social and cultural patterns of individual conduct in order to eliminate "prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women" (article 5). And Article 10.c mandates the revisional text-books, school programmes and teaching methods with a view to eliminating stereotyped concepts in the field of education. Finally, cultural patterns which define the public realm as a man's world and the domestic sphere as women's domain are strongly targeted in all of the Convention's provisions that affirm the equal responsibilities of both sexes in family life and their equal rights with regard to education and employment. Altogether, the Convention provides a comprehensive framework for challenging the various forces that have created and sustained discrimination based upon sex.

The implementation of the Convention is monitored by the Committee on the Elimination of Discrimination against Women (CEDAW). The Committee's mandate and the administration of the treaty are defined in the Articles 17 to 30 of the Convention. The Committee is composed of 23 experts nominated by their Governments and elected by the States parties as individuals "of high moral standing and competence in the field covered by the Convention".

At least every four years, the States parties are expected to submit a national report to the Committee, indicating the measures they have adopted to give effect to the provisions of the Convention. During its annual session, the Committee members discuss these reports with the Government representatives and explore with them areas for further action by the specific country. The Committee also makes general recommendations to the States parties on matters concerning the elimination of discrimination against women.

The full text of the Convention is set out in the pages that follow.

Convention on the Elimination of all Forms of Discrimination Against Women

The States Parties to the present Convention,

Noting that the Charter of the United Nations reaffirms faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women,

Noting that the Universal Declaration of Human Rights affirms the principle of the inadmissibility of discrimination and proclaims that all human beings are born free and equal in dignity and rights and the everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, including distinction based on sex,

Noting that the States Parties to the International Covenants on Human Rights have the obligation to ensure the equal right of men and women to enjoy all economic, social, cultural, civil and political rights,

Considering the international conventions concluded under the auspices of the United Nations and the specialized agencies promoting equality of rights of men and women,

Noting also the resolutions, declarations and recommendations adopted by the United Nations and the specialized agencies promoting equality of rights of men and women,

Concerned, however, that despite these various instruments extensive discrimination against women continues to exist,

Recalling that discrimination against women violates the principles of equality of rights and respect for human dignity, is an obstacle to the participation of women, on equal terms with men, in the political, social, economic and cultural life of their countries, hampers the growth of the prosperity of society and the family and makes more difficult the full development of the potentialities of women in the service of their countries and of humanity,

Concerned that in situations of poverty women have the least access to food, health, education, training and opportunities for employment and other needs,

Convinced that the establishment of the new international economic order based on equity and justice will contribute significantly towards the promotion of equality between men and women,

Emphasizing that the eradication of apartheid, of all forms of racism, racial discrimination, colonialism, neo-colonialism, aggression, foreign occupation and domination and interference in the internal affairs of States is essential to the full enjoyment of the rights of men and women,

Affirming that the strengthening of international peace and security, relaxation of international tension, mutual co-operation among all States irrespective of their social and economic systems, general and complete disarmament, and in particular nuclear disarmament under strict and effective international control, the affirmation of the principles of justice, equality and mutual benefit in relations among countries and the realisation of the right of peoples under alien and colonial domination and foreign occupation to self-determination and independence, as well as respect for national sovereignty and territorial integrity, will promote social progress and development and as a consequence will contribute to the attainment of full equality between men and women,

Convinced that the full and complete development of a country, the welfare of the world and the cause of peace require the maximum participation of women on equal terms with men in all fields.

Bearing in mind the great contribution of women to the welfare of the family and to the development of society, so far not fully recognised, the social significance of maternity and the role of both parents in the family and in the upbringing of children, and aware that the role of women in procreation should not be a basis for discrimination but that the upbringing of children requires a sharing of responsibility between men and women and society as a whole,

Aware that a change in the traditional role of men as well as the role of women in society and

in the family is needed to achieve full equality between men and women,

Determined to implement the principles set forth in the Declaration on the Elimination of Discrimination against Women and, for that purpose, to adopt the measures required for the elimination of such discrimination in all its forms and manifestations,

Have agreed on the following:

Part I

Article 1

For the purposes of the present Convention, the term "discrimination against women" shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

Article 2

States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

- (a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realisation of this principle;
- (b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;
- (c) To establish legal protection of the rights of women on equal basis with men and to ensure through competent national

tribunals and other public institutions the effective protection of women against any act of discrimination;

- (d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;
- (e) To take all appropriate measures to eliminate discrimination against women by any person, organisation or enterprise;
- (f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;
- (g) To repeal all national penal provisions which constitute discrimination against women.

Article 3

States parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

Article 4

1. Adoption by States Parties of temporary special measures aimed at accelerating *de facto* equality between men and women shall not be considered discrimination as defined in the present convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.
2. Adoption by States Parties of special measures, including those measures contained in the present Convention, aimed of protecting

maternity shall not be considered discriminatory.

Article 5

States Parties shall take all appropriate measures:

- (a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;
- (b) To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of the children, it being understood that the interest of the children is the primordial consideration in all cases.

Article 6

States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.

Part II

Article 7

States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

- (a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;
- (b) To participate in the foundation of government policy and the implementation thereof and to hold public policies and perform all public functions at all levels of government.

- (c) To participate in non-governmental organisations and associations concerned with the public and political life of the country.

Article 8

States Parties shall take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organisations.

Article 9

1. States Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.
2. States Parties shall grant women equal rights with men with respect to the nationality of their children.

Part III

Article 10

States parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

- (a) The same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured in pre-school, general, technical, professional and higher technical education, as well as in all types of vocational training;
- (b) Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school

premises and equipment of the same quality;

- (c) The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging coeducation and other types of education which will help to achieve this aim and, in particular, by the revision of text-books and school programmes and the adaptation of teaching methods;
- (d) The same opportunities to benefit from scholarships and other study grants;
- (e) The same opportunities for access to programmes of continuing education, including adult and functional literacy programmes particularly those aimed at reducing, at the earliest possible time, any gap in education existing between men and women;
- (f) The reduction of female student drop-out rates and the organisation of programmes for girls and women who have left school prematurely;
- (g) The same opportunities to participate actively in sports and physical education;
- (h) Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.

Article 11

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:

- (a) The right to work as an inalienable right of all human beings;
- (b) The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment;

- (c) The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training;
- (d) The right to equal remuneration, including benefits, and to equal treatment, in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work;
- (e) The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave;
- (f) The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.

2. In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:

- (a) To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;
- (b) To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;
- (c) To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child-care facilities;
- (d) To provide special protection to women during pregnancy in types of work proved to be harmful to them,

- 3. Protective legislation relating to matters covered in this article shall be reviewed periodically in the light of scientific and technological knowledge and shall be revised, revealed or extended as necessary.

Article 12

- 1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.
- 2. Not with standing the provisions of paragraph 1 of this article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.

Article 13

- 1. States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular:
 - (a) The right to family benefits;
 - (b) The right to bank loans, mortgages and other forms of financial credit;
 - (c) The right to participate in recreational activities, sports and all aspects of cultural life.

Article 14

- 1. States Parties shall take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families, including their work in the non-monetized sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of this Convention to women in rural areas.

2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:

- (a) To participate in the elaboration and implementation of development planning at all levels;
- (b) To have access to adequate health care facilities, including information, counselling and services in family planning;
- (c) To benefit directly from social security programmes;
- (d) To obtain all types of training and education, formal and non-formal, including that relating to functional literacy, as well as *inter alia*, the benefit of all community and extension services, in order to increase their technical proficiency;
- (e) To organize self-help groups and co-operatives in order to obtain equal access to economic opportunities through employment or self-employment;
- (f) To participate in all community activities;
- (g) To have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes;
- (h) To enjoy adequate living condition particularly relation to housing, sanitation, electricity and water supply, transport and communications.

Part IV

Article 15

1. States Parties shall accord to women equality with men before the law.
2. States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise

that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals.

3. States Parties agree that all contracts and all other private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women shall be deemed null and void.
4. States parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.

Article 16

1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:

- (a) The same right to enter into marriage;
- (b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;
- (c) The same rights and responsibilities during marriage and at its dissolution;
- (d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;
- (e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;
- (f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;

- (g) The same personal right as husband and wife, including the right to choose a family name, a profession and an occupation;
 - (h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.
2. The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

Part V

Article 17

1. For the purpose of considering the progress made in the implementation of the present Convention, there shall be established a Committee on the Elimination of discrimination against Women (hereinafter referred to as the Committee) consisting, at the time of entry into force of the Convention, of eighteen and, after ratification of or accession to the Convention by the thirty-fifth State Party, of twenty-three experts of high moral standing and competence in the field covered by the Convention. The experts shall be elected by States Parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution and to the representation of the different forms of civilization as well as the principle legal systems.
2. The members of the Committee shall be elected by secret ballot, from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals.
3. The initial election shall be held six months after the date of the entry into force of the present Convention. At least three months before the date of each election the Secretary-General of the United Nations shall address

a letter to the States Parties inviting them to submit their nominations within two months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the States Parties which have nominated them, and shall submit it to the States Parties.

4. Elections of the members of the Committee shall be held at a meeting of States Parties convened by the Secretary-General at United Nations Headquarters. At that meeting, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be those nominees who obtain the largest number of votes and an absolute majority of the votes of their representatives of States Parties present and voting.
5. The members of the Committee shall be elected for a term of four years. However, the terms of nine of the members elected of the first election shall expire at the end of two years; immediately after the first election the names of these nine members shall be chosen by lot by the Chairman of the Committee.
6. The election of the five additional numbers of the Committee shall be held in accordance with the provisions of paragraphs 2,3, and 4 of this article, following the thirty-fifth ratification or accession. The terms of two of the additional members elected on this occasion shall expire at the end of two years, the names of these two members having been chosen by lot by the Chairman of the Committee.
7. For the filling of casual vacancies, the State Party whose expert has ceased to function as a member of the Committee shall appoint another expert from among its nationals, subject to the approval of the Committee.
8. The members of the Committee shall, with the approval of the General Assembly, receive employments from United Nations resources on such terms and conditions as Assembly may decide, having regard to the importance of the Committee's responsibilities.

9. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present convention.

Article 18

1. States Parties undertake to submit to the Secretary-General of the United Nations, for consideration by the Committee, a report on the legislative, judicial, administrative or other measures which they have adopted to give effect to the provisions of the present Convention and on the progress made in this respect:
 - (a) Within a year after the entry into force for the State concerned; and
 - (b) Thereafter at least every four years and further whenever the Committee so requests.
2. Report may indicate factors and difficulties affecting the degree of fulfillment of obligations under the present Convention.

Article 19

1. The Committee shall adopt its own rules of procedure.
2. The Committee shall elect its offices for a term of two years.

Article 20

1. The Committee shall normally meet for a period of not more than two weeks annually in order to consider the reports submitted in accordance with article 18 of the present Convention.
2. The meetings of the Committee shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Committee.

Article 21

1. The Committee shall, through the Economic and Social Council, report annually to the

General Assembly of the United Nations on its activities and may make suggestions and general recommendations based on the examination of reports and information received from the States Parties. Such suggestions and general recommendations shall be included in the report of the Committee together with comments, if any, from States Parties.

2. The Secretary-General shall transmit the reports of the Committee to the Commission on the Status of Women for its information.

Article 22

The specialised agencies shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their activities. The Committee may invite the specialised agencies to submit reports on the implementation of the Convention in areas falling within the scope of their activities.

Part VI

Article 23

Nothing in this Convention shall affect any provisions that are more conducive to the achievement of equality between men and women which may be contained:

- (a) In the legislation of a State Party; or
- (b) In any other international convention, treaty or agreement in force for that State.

Article 24

States Parties undertake to adopt all necessary measures at the national level aimed at achieving the full realisation of the rights recognised in the present Convention.

Article 25

1. The present Convention shall be open for signature by all States.
2. The Secretary-General of the United Nations is designated as the depository of the present Convention.

3. The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.
4. The present Convention shall be open to accession by all States. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article 26

1. A request for the revision of the present Convention may be made at any time by any State Party by means of a notification in writing addressed to the Secretary-General of the United Nations.
2. The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such a request.

Article 27

1. The present Convention shall enter into force on the thirtieth day after the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.
2. For each State ratifying the present Convention or acceding to it after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or accession.

Article 28

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession.
2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.

3. Reservations may be withdrawn at any time by notification to this effect addressed to the Secretary-General of the United Nations, who shall then inform all States thereof. Such notification shall take effect on the date on which it is received.

Article 29

1. Any dispute between two or more States Parties concerning the interpretation or application of the present Convention which is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the parties are unable to agree on the organisation of the arbitration, any one of those parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.
2. Each State Party may at the time of signature or ratification of this Convention or accession thereto declare that it does not consider itself bound by paragraph 1 of this article. The other States Parties shall not be bound by that paragraph with respect to any State Party which has made such a reservation.
3. Any State Party which has made a reservation in accordance with paragraph 2 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

Article 30

The present Convention, the Arabic, Chinese, English, French, Russian and Spanish texts of which are equally authentic, shall be deposited with the Secretary-General of the United Nations.

Source: Original text of the Convention published by the United Nations

Special Rapporteur on Violence Against Women and the Mandate

The Chairman of the U.N. Human Rights Commission, Ambassador Peter P. Van Wulfften Palthe, has appointed Radhika Coomaraswamy as the Special Rapporteur on Violence Against Women for a period of three years. The appointment was in pursuance of a Resolution adopted without vote at the Fiftieth Session of the U.N. Human Rights Commission concluded recently in Geneva on the elimination of violence against women. This Resolution followed the Vienna Declaration and Programme of Action of the World Conference which called for the elimination of gender based violence and all forms of sexual harassment and exploitation. The appointment of a Special Rapporteur has been widely regarded as a milestone in the struggle for the universal application of human rights to all women.

The mandate of the Special Rapporteur requires her to report on an annual basis to the U.N. Human Rights Commission on violence against women including its causes and consequences. She will be required to seek and receive information from governments, inter-governmental bodies and women's organisations on violence against women, and to respond effectively to such information. She will also be required to undertake missions either separately or with other special rapporteurs and working groups. She will be required to recommend measures at the international, regional and national level to eliminate violence against women, its causes and to remedy its consequences. The Secretary

General has been requested to provide the Special Rapporteur with the staff and resources required to perform all her mandated functions, and to further ensure that her reports are brought to the attention of the Commission on the Status of Women.

Radhika Coomaraswamy is the Director of the International Centre for Ethnic Studies based in Sri Lanka. She was educated at Yale College, Columbia Law School and Harvard Law School. She is a lawyer and social scientist of international standing and has had many years of experience in addressing the human rights of women. She is the author of numerous articles and reports on gender equality, gender based violence, women and religion, and international human rights issues. She is author of 'Sri Lanka, The Crisis of the Anglo-American Legal Tradition in a Developing country' (1983) and has co-edited 'The Judiciary in Plural Societies' (1986) and 'An Introduction to Social Theory' (1994). She was a member of the Presidential Commission on Youth and Member of the Sri Lanka National Commission on Women. She is also a joint-Secretary of the Nadesan Centre on Human Rights, and a member of the Civil Rights Movement. She is also a Steering Committee Member of the Asia Pacific Forum for Women, Law and Development. She headed a study on minority protection issues undertaken for the UN Transitional Authority in Cambodia, and was a member of the international panel to award the UNESCO Human Rights Prize.

The question of integrating the rights of women into the human rights mechanisms of the United Nations and the elimination of violence against women

The Commission on Human Rights

Recalling its resolution 1993/46 of 8 March 1993 on integrating the rights of women into the human rights mechanisms of the United Nations, in which it also decided to consider the appointment of a special rapporteur on Violence Against Women at the fiftieth session.

Also recalling that the World Conference on Human Rights welcomed the decision of the Commission on Human Rights to consider the appointment of the Special Rapporteur on violence against women at its fiftieth session.

Welcoming the adoption by the General Assembly, in its resolution 48/104 of 20 December 1993, of the Declaration on the Elimination of Violence Against Women, which recognizes that violence against women both violates and impairs or nullifies the enjoyment by women of human rights and fundamental freedoms, and expresses concern about the long-standing failure to protect and promote these rights and freedoms in relation to violence against women.

Deeply concerned at continuing and endemic violence against women, and noting that the Declaration on the Elimination of Violence against Women sets out various forms of physical, sexual and psychological violence against women.

Mindful that the Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights, affirmed that gender-based violence and all forms of sexual harassment and exploitation, including those resulting from cultural prejudice and international trafficking, are incompatible with the dignity and worth of the human person and must be eliminated.

Alarmed by the marked increase in acts of sexual violence directed notably against women and children, as expressed in the Final Declaration

of the International Conference for the Protection of War Victims (Geneva, 30 August 1 September 1993), and reiterating that such acts constitute grave breaches of international humanitarian law.

Bearing in mind that the Vienna Declaration and Programme of Action calls for action to integrate the equal status and human rights of women into the mainstream of United Nations system-wide activity, stresses the importance of working towards the elimination of violence against women in public and private life and urges the eradication of all forms of discrimination against women.

gender-based violence and all forms of sexual harassment and exploitation, including those resulting from cultural prejudice and international trafficking, are incompatible with the dignity and worth of the human person and must be eliminated

Recalling the outcome of the World Conference on Human Rights as reflected in the Vienna Declaration and Programme of Action, which affirmed that the human rights of women and of the girl child are an inalienable, integral and indivisible part of universal human rights and that the full and equal participation of women in political, civil, economic, social and cultural life, at the national, regional and international levels, and the eradication of all forms of discrimination on the grounds of sex are priority objectives of the international community.

Also recalling that the Vienna Declaration and Programme of Action affirmed that the human rights of women should form an integral part of United Nations human rights activities, including

the promotion of all human rights instruments as they relate to women, and urged Governments, institutions, inter-governmental and non-governmental organisations to intensify their efforts for the protection and promotion of the human rights of women and the girl child.

the human rights of women and of the girl child are an inalienable, integral and indivisible part of universal human rights

Bearing in mind that the programme of action for the equal status and human rights of women adopted in the Vienna Declaration (Part II, B, 3) sets out a series of measures to be taken to further the full and equal enjoyment by women of all human rights as a priority for Governments and the United Nations, and recognising the importance of the integration and the full participation of women as both agents and beneficiaries in the development process.

Welcoming the report of the Secretary-General (E/CN.4/1994/34) submitted in response to the request contained in resolution 1993/46 to consult with all United Nations human rights bodies, including the treaty bodies, on the implementation of the resolution and in particular the action taken to create a focal point in the centre for Human Rights for the human rights of women.

Considering that the Vienna Declaration and Programme of Action called on the United Nations to encourage the goal of universal ratification by all States of the Convention on the Elimination of All Forms of Discrimination against Women by the year 2000 and to avoid, as far as possible, the resort to reservations.

Reaffirming that discrimination on the basis of sex is contrary to the Charter of the United Nations, the Universal Declaration of Human Rights, the Convention on the Elimination of All Forms of Discrimination against Women and other international human rights instruments, and that its elimination is an integral part of efforts towards the elimination of violence against women.

Stressing that the effective implementation of the Convention on the Elimination of All Forms of Discrimination against Women will contribute to the elimination of violence against women and that the Declaration on the Elimination of Violence against Women strengthens and complements this process.

Recognising the need to promote and strengthen national and international efforts to improve the status of women in all areas in order to foster the elimination of discrimination and gender-based violence against women.

Looking forward to the Forth World Conference on Women, Action for Equality, Development and Peace to be held in Beijing in 1995, and urging that human rights of women should play an important role in its deliberations.

Recognising the important role of the women's movement and of non-governmental organisations in promoting the human rights of women.

1. Condemns all violations of the human rights of women, including acts of gender-based violence against women.
2. Calls for, in accordance with the Declaration on the Elimination of Violence against Women, the elimination of gender-based violence in the family, within the general community and where perpetrated or condoned by the State and emphasises the duty of Governments to refrain from engaging in violence against women and to exercise due diligence to prevent, investigate and, in accordance with national legislation, to punish acts of violence against women and to take appropriate and effective action concerning acts of violence against women, whether those acts are perpetrated by the State or by private persons, and to provide access to just and effective remedies and specialised assistance to victims.
3. Condemns all violations of the human rights of women in situations of armed conflict, recognises them to be violations of international human rights and humanitarian law, and calls for a particularly effective response to violations of this kind, including in particular mur-

der, systematic rape, sexual slavery and forced pregnancy.

4. Calls for the elimination of violence against women in public and private life, of all forms of sexual harassment, exploitation and trafficking in women, the elimination of gender bias in the administration of justice and the eradication of the harmful effects of certain traditional or customary practices, cultural prejudices and religious extremism.
5. Urges Governments to intensify their efforts to promote and protect the human rights of women and eliminate violence against women, in accordance with the Vienna Declaration and Programme of Action and the Declaration on the Elimination of Violence against Women, through the adoption of all appropriate means and measures, at the national, regional and international levels.
6. Decides to appoint, for a three-year period, a special rapporteur on violence against women, including its causes and its consequences, who will report to the Commission on an annual basis beginning at its fifty-first session.
7. Invites the Special Rapporteur, in carrying out this mandate, and within the framework of the Universal Declaration of Human Rights and all other international human rights instruments including the Convention on the Elimination of All Forms of Discrimination against Women and the Declaration on the Elimination of Violence against Women, to:
 - (a) Seek and receive information on violence against women, its causes and its consequences from Governments, treaty bodies, specialised agencies, other special rapporteurs responsible for various human rights questions and inter-governmental and non-governmental organisations, including women's organisations, and to respond effectively to such information;
 - (b) Recommend measures, ways and means, at the national, regional and international levels, to eliminate violence against women and its causes, and to remedy its consequences;
 - (c) Work closely with other special rapporteurs, special representatives, working groups and independent experts of the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities and with the treaty bodies, taking into account the Commission's request that they regularly and systematically include in their reports available information on human rights violations affecting women, and cooperate closely with the Commission on the Status of Women in the discharge of its functions;
8. Requests the Chairman of the Commission, after consultation with the other members of the Bureau, to appoint as Special Rapporteur an individual of recognised international standing and experience in addressing the human rights of women.
9. Requests all Governments to cooperate with and assist the Special Rapporteur in the performance of the tasks and duties mandated and to furnish all information requested.
10. Requests the Secretary-General to provide the Special Rapporteur with all necessary assistance, in particular the staff and resources required to perform all mandated functions, especially in carrying out and following up on missions undertaken either separately or jointly with other special rapporteurs and working groups, and adequate assistance for periodic consultations with the Committee on the Elimination of Discrimination against Women and all other treaty bodies;
11. Also requests the Secretary-General to ensure that the reports of the Special Rapporteur are brought to the attention of the Commission on the Status of Women to assist in the Commission's work in the area of violence against women.
12. Calls for intensified efforts at the international level to integrate the equal status of women and the human rights for women into the mainstream of United Nations system-wide activity and to address these issues regularly

and systematically throughout relevant United Nations bodies and mechanisms.

13. Recognises the particular role of the Commission on the Status of Women in promoting equality between women and men.
14. Encourages the strengthening of cooperation and coordination between the Commission on Human Rights, the Commission on the Status of Women, the Committee on the Elimination of Discrimination against Women and other treaty bodies, the United Nations Development Fund for Women, the United Nations Development Programme and other United Nations Agencies.
15. Calls for closer cooperation and coordination between the Centre for Human Rights and the Division for the Advancement of Women.
16. Renews its call to Governments to include gender-disaggregated data including information on the *de jure* and *de facto* situation of women, in the information they provide to special rapporteurs, treaty bodies and to all other United Nations bodies and mechanisms concerned with human rights, and notes that the Vienna Declaration and Programme of Action calls on all special rapporteurs, working groups, the treaty bodies and other mechanisms of the Commission and the Sub-Commission to make use of such data in their deliberations and findings.
17. Renews its request to the Secretariat to ensure that special rapporteurs, experts, working groups, treaty bodies and other mechanisms of the Commission and the Sub-Commission are fully apprised of the particular human rights violations suffered by women, and noting in view of the fact that the Vienna Declaration and Programme of Action encourages training for United Nations human rights and humanitarian relief personnel to assist them to recognise and deal with the human rights violations particular to women and to carry out their work without gender bias, and requests the Centre for Human Rights to take action in this regard.
18. Requests all special rapporteurs, experts, working groups, treaty bodies and other

mechanisms of the Commission and the Sub-Commission, in the discharge of their mandates, regularly and systematically to include in their reports available information on human rights violations against women.

19. Requests Governments and the United Nations to include in their human rights education activities information on the human rights of women.
20. Notes that the Fourth World Conference on Women: Action for Equality, Development and Peace to be held in Beijing in 1995, may consider the question of means of integrating the human rights of women into the mainstream of United Nations system-wide activity.
21. Decides to continue its consideration of the question as a matter of high priority at its fifty-first session.
22. Recommends the following draft decision to the Economic and Social Council for adoption:
"The Economic and Social Council, taking note of the Commission on Human Rights resolution 1994/45 of 4 March 1994, approves -
 - (a) The Commission's decision to appoint a special rapporteur on violence against women, including its causes and its consequences;
 - (b) The Commission's request to the Secretary-General to provide the Special Rapporteur with all necessary assistance, in particular, the staff and resources required to perform all mandated functions, especially in carrying out and following up on missions undertaken either separately or jointly with other special rapporteurs and working groups, and adequate assistance for periodic consultations with the Committee on the Elimination of Discrimination against Women and all other treaty bodies;
 - (c) The Commission's request to the Special Rapporteur to report to the Commission on an annual basis, beginning at its fifty-first session".

Source: Law and Society Trust, Vol. IV, Issue No. 76, 1 May 1994.

The Fourth World Conference on Women

Beijing, China 4 - 5 September 95.

FACT SHEET

What:

The Fourth World Conference on Women: Action for Equality, Development and Peace

Where:

Beijing International Convention Centre, Beijing, China

When:

4-15 September 1995

Why:

To review and appraise the advancement of women since 1985 in terms of the objectives of the Nairobi Forward-looking Strategies for the Advancement of Women to the Year 2000.

To mobilise women and men of both the policy-making and grass-roots levels to achieve those objectives.

To adopt a "Platform for Action", concentrating on some of the key issues identified as representing a fundamental obstacle to the advancement of the majority of women in the world. It will include elements relating to awareness-raising, decision-making, literacy, poverty, health, violence, national machinery, refugees and technology.

To determine the priorities to be followed in 1996-2001 for implementation of the strategies within the United Nations system.

Who:

The Conference has been convened by the United Nations General Assembly, with the United Nations Commission on the Status of Women serv-

ing as the Preparatory Committee. This inter-governmental body, representing 45 United Nations Member States, meets annually to formulate guidelines on actions to improve women's status in the economic, political, social, cultural and educational fields.

Gertrude Mongella (United Republic of Tanzania) has been appointed Secretary-General of the Conference. Her office and the Conference secretariat, which is responsible for organising the Conference and preparing its documents, are located at United Nations Headquarters in New York.

Conference participants and observers will include Governments; organisations of the United Nations system; inter-governmental organisations; national liberation movements recognised by the Organisation of African Unity; non-governmental organisations; experts and professional associations.

Conference Documents

- draft Platform for Action
- a report of the Secretary-General on the second review and appraisal of the implementation of the Nairobi Forward-looking Strategies for the Advancement of Women to the Year 2000.
- 1994 World Survey on the Role of Women in Development
- updated edition of *The World's Women 1970-1990: Trends and Statistics*
- outcome of regional preparatory meetings for the Fourth World Conference
- updated compendium on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women, national reports to be prepared by Governments as a basis for future national action

Conference Background

There have been three United Nations world conferences on women. The first conference, held during International Women's Year in Mexico City, 1975, led to the declaration by the United Nations General Assembly of the United Nations Decade for Women (1976-85). At the second conference, held in Copenhagen in 1980, participants adopted a Programme of Action for the Second Half of the United Nations Decade for Women. The third conference, which took place in Nairobi, 1985, at the end of the Decade, adopted the Nairobi Forward-looking Strategies for the Advancement of Women to the Year 2000. The strategies provide a framework for action at the national, regional and international levels to promote greater equality and opportunity for women. They are based on the three objectives of the United Nations Decade for Women—equality, development and peace.

How Non-governmental Organisations can Participate

In the Conference

Non-governmental organisations (NGOs) are encouraged to participate in the World Conference itself, in the parallel forum to be organised by NGOs and in preparatory activities at the regional and national levels. Organisations having consultative status with the Economic and Social Council will automatically be eligible to attend. For information on consultative status, contact the NGO Unit, DC-2 Room 2338, United Nations, NY, NY 10017, USA, tel. 212/963-4663. Organisations wishing to apply for that status in time for the Conference should do so as soon as possible.

NGOs that do not have consultative status but which participate in regional preparatory activities and/or regional meetings will be eligible to apply for participation in the Conference. Governments have also been invited to include NGOs in their delegations. For information on regional activities, contact the respective focal point listed below.

In the NGO Forum

An NGO Forum will be held in Beijing, 30 August - 8 September, at the Beijing Workers'

Sports Service Centre. Open to all interested women and men, it is being planned and organised by an NGO Forum Facilitating Committee established by the conference of NGOs in consultative status with the Economic and Social Council (CONGO), under the direction of a 60-member NGO Forum Planning Committee. The Planning Committee, through its representatives in Geneva, New York and Vienna, is organising three pre-conference consultations in 1993-1995, regional meetings in conjunction with the United Nations regional preparatory conferences, and the Forum itself.

Preparatory Process

Prior to the Conference a number of meetings are taking place at the national, regional and international levels, organised by NGOs as well as by the United Nations. Following is a preliminary calendar, which also included other major United Nations conferences:

1993

18 January- 5 February, Vienna	Committee on the Elimination of Discrimination against Women
15-16 March, Vienna	17th Inter-Agency Meeting on Women
15-16 March, Vienna	NGO Planning Committee Consultations
17-26 March, Vienna	Commission on the Status of Women, 37th session
May, Addis Ababa, Ethiopia	Regional Expert Group Meeting on African Plan of Action
14-25 June, Vienna	World Conference on Human Rights
August, Kampala, Uganda	Regional Conference on Women and Peace
November	Asian Regional NGO Workshop on Women in Development
Late 1993	Regional Expert Group Meeting on Western Asian Plan of Action

1994			Council of Europe, "Equality and Democracy"
Early January, New York	Commission on the Status of Women, inter-sessional meeting on draft Platform for Action	January, Amman, Jordan	Western Asian Regional Preparatory Conference
17 January - 4 February, New York	Committee on the Elimination of Discrimination against Women	January	Committee on the Elimination of Discrimination against Women
February or May, Tunisia	Regional Expert Group Meeting on African Plan of Action	February	UNESCO Seminar on "Women and the Media"
March, New York	18th Inter-Agency Meeting on Women	6-12 March, Copenhagen, Denmark	World Summit for Social Development
March, New York	NGO Planning Committee Consultations	March	19th Inter-Agency Meeting on Women
March, New York	Commission on the Status of Women, 38th session	20-31 March	NGO Planning Committee Consultations
April	ILO International Forum on Equality for Women in a Changing World: Challenges for the Future	13-24 March	Commission on the Status of Women, 39th session
June, Cairo, Egypt	Working Group on Regional Plan of Action for Women and Development in Western Asia	30 August-8 September, Beijing	NGO Forum
7-14 June, Indonesia	Asian and Pacific Regional Preparatory Conference	4-15 September, Beijing	Fourth World Conference Women
1-6 August, Turku, Finland	Nordic Forum	In regional preparatory activities	
5-13 September, Cairo, Egypt	International Conference on Population and Development	NGOs can bring their issues to the forefront by participating in a series of meetings planned to take place at the time of the United Nations regional preparatory conferences. Those meetings will assess the key issues for women on a regional basis and ultimately provide input for regional reports to be considered at the Conference.	
September, Argentina	Latin American and Caribbean Regional Preparatory Conference	The representatives of the Planning Committee, and the focal points for regional activities, are as follows:	
September/October, Dakar, Senegal	African Regional Preparatory Conference	<i>Geneva</i>	
Santo Domingo, Dominican Republic	INSTRAW Interregional Conference on Women, Environment & Health	<i>Irene Hoskins, Chair</i>	
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Source: United Nations Department of Public Information, Room S-1040,
New York, NY 10017, USA.

Citizens as Voters

Injustice undone

*Soli J. Sorabjee**

The recent judgement of the Supreme Court quashing the wholesale deletion of names of thousands of persons by electoral officers from the electoral rolls is an admirable example of bold and speedy justice redressing massive violation of the cherished right of franchise in our democracy.

Under the Constitution (Article 326) and the Representation of People Act 1950 (Section 16) no person can be registered as a voter in an electoral roll unless he is inter alia a citizen of India. Consequently non-citizens are not entitled to vote in an election. Electoral rolls can be revised and the name of any person who is erroneously included in the electoral roll can be deleted if he or she is not a citizen of India. Rule 21-A of the Registration of Electors Rules, 1960 requires that before deletion the registration officer shall make every endeavour to give the affected person a reasonable opportunity to show cause.

Who is a citizen of India? Under Article 5 of the Constitution every person who has his domicile in India and who was born in India or either of whose parents was born in India or who has been resident in India for not less than five years before the commencement of the Constitution. In view of Article 11 of the Constitution which enables Parliament to regulate the right of citizenship, the Citizenship Act 1955 has been enacted. An important amendment was made in 1986 to the Citizenship Act to ensure there could be no automatic

acquisition of citizenship by birth. A person born in India after 1986 would become a citizen of India by birth only if at the time of his birth either of his parents is a citizen of India.

A massive disenfranchisement operation was undertaken in Bombay and in Delhi in the latter half of 1994. Its genesis was sheer suspicion fed by prejudice against members of the Muslim community.

The Election Commission issued a directive on September 9, 1994, empowering electoral registration officers to identify foreign nationals and delete their names from the electoral roll. The guidelines issued by the Election Commission stated that the onus of proof of citizenship shall lie on the person seeking to have his name in the electoral roll. Thereafter notices were issued by the police to as many as 1.67 lakh persons calling upon them to produce (i) birth certificate; (ii) passport issued by the Government of India; (iii) certificate of citizenship and (iv) entry made in the register of citizenship by the Government of India.

Writ petitions were filed in the Bombay High Court challenging the action. During the hearing before the High Court it was conceded that it was the police which had identified the areas having substantial presence of foreign nationals on the basis of intelligence reports. The Advocate General of Maharashtra further conceded that the documents

* The writer is a former Attorney General of India.

in support of proof of citizenship will not be confined to those mentioned in the notice and other documents having a bearing on the question of citizenship would also be entertained. On the basis of these concessions, the Bombay High Court dismissed the writ petitions.

What happened in Delhi is breathtaking. As many as 18,000 persons residing for decades in one of the oldest and large jhuggi jhompri clusters of Delhi behind Vijay Ghat and whose names were on the earlier electoral rolls were issued a general notice stating that all the residents of that colony were suspected to be foreigners. They were called upon to appear with a concrete proof in support of their claim to citizenship. A vast majority of these persons are Muslims. When these persons appeared and produced documentary evidence such as, ration cards, identity cards issued by the Delhi Administration, certificates from their village Pradhans and affidavits, they were told that these documents were of no avail. And out of 18,000 voters registered in the previous electoral rolls, names of 17,700 were deleted and consequently 98 per cent of voters were deprived of their right to vote. This action was based solely on the reports of the police whose copies were not furnished to the notices.

More shocking is the farce performed in Motia Khan, Paharganj in New Delhi. Names of 2,149 persons were deleted brushing aside documents such as ration cards, electoral rolls of the past elections, school records to show that they are bonafide residents of the said locality. Request for time to collect further material from their villages was refused. In this case also the sole basis of the action was the undisputed police reports despite the fact that the order of the electoral officer expressly admitted that: "The police did not report the time of visit and names of independent witness or neighbours and also expressed their inability to conduct re-verification saying that their 'personnel are preoccupied in duties in relation to celebration of Dussehra and Ramlila" (emphasis added).

One of the reasons for the travesty of justice was the impression created by the Election Commission by its statements made time and again

that the verification had to be completed within the time-frame failing which the officers would be exposed to disciplinary action. The consequence was that the police went about their task with a mind-set which gave practically no opportunity to the affected persons, making a mockery of the reasonable opportunity of being heard requirement contemplated under the law. Worse, electoral registration officers totally abdicated their functions in favour of what the police had done during verification. Moreover, no effort was made to evaluate the evidence produced by the notices.

One of the reasons for the travesty of justice was the impression created by the Election Commission that the verification had to be done within the time-frame failing which the officers would be exposed to disciplinary action.

The Supreme Court whilst quashing these deletions, which were not attempted to be defended, gave certain important directions. One of them is that if any person whose citizenship is suspected is included in the immediately preceding electoral roll, the electoral officer shall attach "adequate probative value" to that fact before issuance of notice and in subsequent proceedings. Unfortunately, electoral officers can have their own perceptions about "adequate probative value". It would have been better if the Court had ruled that inclusion of a person's name in the previous electoral roll raised a presumption that he or she was a citizen of India and the burden to rebut that presumption was squarely on the electoral authorities. The Court further directed that the electoral officer must entertain all evidence that the affected person may like to tender and disclose all material on which reliance was proposed to be placed.

Another direction given is that the officer concerned will bear in mind the provisions of the Constitution and Citizenship Act and then pass an

appropriate speaking order. No exception can be taken to this part except that the Court should have clarified that the decision of the electoral officer that a person is not a citizen of India and therefore his name should be deleted cannot be finally determinative of a person's status as a citizen of India but is merely prima facie assessment for the limited purpose of deciding whether person's name should be deleted or otherwise.

The Court clarified that the final electoral roll with regard to others whose names were not sought to be deleted on the suspicion that they were not

citizens of India shall remain undisturbed. The Court directed that if the revision of the roll is not possible on account of paucity of time, the previous roll will govern the matter.

What is heartening is that the Court granted this relief not merely to the petitioners but to all others similarly situated who were also victims of the gross injustice perpetrated by the electoral authorities.

Source: Indian Express, Feb. 11, 95

No Broadcasting Monopoly

Public Rules The Air Waves

Soli J. Sorabjee

The Clash between the Cricket Association of Bengal (CAB) and Doordarshan on telecasting rights has resulted in the recent landmark judgment of the Supreme Court on the freedom to broadcast. The CAB organised the international "Hero Cup Tournament" in which, in addition to India, the West Indies, South Africa, Sri Lanka and Zimbabwe agreed to participate. The CAB and Doordarshan disagreed on the price for the sale of worldwide television rights for screening these matches. Consequently, the CAB entered into a contract with Trans-World Image (TWI), a foreign agency, for the telecast of the matches. Doordarshan asserted that it had exclusive rights for live telecast and demanded a fee of Rs.5 lakhs per match. Doordarshan also wrote a letter to Videsh Sanchar Nigam Ltd (VSNL), a government-owned company, asking it not to provide uplinking facilities to TWI for telecasting these matches.

Writ petitions were filed by the CAB and the Board of Control for Cricket in India (BCCI) in

the Calcutta High Court which passed interim orders, following which the matches were telecast. This happened before the appeals on the Calcutta High Court orders were heard in the Supreme Court. In one sense, the matter had become academic. In view of the importance of the issues raised, however, a three judge bench of the Supreme Court heard the appeals and delivered judgments laying down certain principles of deep constitutional significance.

Paramount Right

One of the issues discussed in these judgments is the content of the freedom of speech and expression guaranteed by Article 19(1) (a) of the Constitution. There is unanimity that the right to receive and impart information is implicit in free speech and that cricket, like any other sports event, provides entertainment which is a facet of free speech. Both judgments emphasise that it is the right of the viewers and listeners which is paramount from the standpoint of Article 19(1) (a).

There is a difference of opinion over whether the right of access to air waves/ frequencies can be claimed as a fundamental right by an Indian citizen. According to Justices Sawant and Mohan, the freedom of speech includes the right to disseminate information to as wide a section of the population as is possible, and therefore "the access which enables the right to be so exercised is also an integral part of the said right. The wider range of circulation of information or its greater impact cannot restrict the content of the right nor can it justify its denial. The virtues of the electronic media cannot become its enemies". This right can be restricted but only on the grounds mentioned in Article 19 (2) of the Constitution, namely, the sovereignty and integrity of India, the security of the state, friendly relations with foreign states, public order, decency or morality, contempt of court, defamation or incitement to an offence.

Because the air waves are public property and are limited, however, there is an in-built "limitation imposed by the nature of the public property involved in the use of the electronic media". Consequently, "they have to be used in the best interest of the society and this can be done either by a central authority establishing its own broadcasting network or regulating the grant of licences to other agencies, including the private agencies".

Reasoning Coloured

The reasoning and conclusions of Justices Sawant and Mohan are coloured by their perception of BCCI/CAB as non-profit-making organisations devoted to the promotion of cricket, which cannot be placed on a par with business organisations whose aim is to make large profits by telecasting the matches. Their judgment repeatedly emphasises that BCCI/CAB are not claiming a commercial

The wider range of circulation of information or its greater impact cannot restrict the content of the right nor can it justify its denial.

right to exploit the event but are exercising their right under Article 19 (1) (a) and what was claimed "is a right to an access to telecasting specific events for a limited duration and during limited hours of the day. There is no demand for owning or controlling a frequency" and that the court was not concerned "in the present case with the right of the private broadcasters". But surely that was the central issue in the case.

'Airwaves are public property'

Ruling that the 'airwaves or frequencies are a public property', the Supreme Court, in a judgment with far-reaching consequences for the electronic media, has asked the Union government to take immediate steps for setting up an independent autonomous public authority to control and regulate the use of the airwaves.

The 3-judge Bench of Justice P.B.Sawant, Justice S.Mohan and Justice B.P. Jeevan Reddy held that since the airwaves were a public property, their use had to be controlled and regulated by a public authority in the interests of the public and to prevent the invasion of their rights.

Source: Indian Express, Feb. 10, 95

On the other hand, according to Justice Jeevan Reddy, "Article 19 (1) (a) does not enable a citizen to impart his information, views and opinions by using the air waves. He can do so without using the air waves. A right to establish private broadcasting stations, whether permanent or temporary, stationary or mobile, cannot be read into Article 19 (1) (a). Moreover, according to Justice Reddy, restrictions can be imposed on grounds of "national interest," "interest of society" or "public interest" even though these are not specifically mentioned because "the several grounds mentioned in clause (2) are ultimately referable to the interests of the nation and of the society".

"state control really means governmental control which, in turn, means control of the political party or parties in power for the time being. Such control is bound to colour the views, information and opinions conveyed by the media"

This part of the judgment of Justice Reddy runs counter to the Supreme Court's decision in *Sakal Papers*, reaffirmed in subsequent judgments, laying down that restrictions of freedom of expression can be imposed on the grounds mentioned in Article 19 (2) and none other. The restrictive view of Justice Reddy is in surprising contrast to the liberal approach reflected in his previous judgments concerning freedom of expression. One reason is the distinction between the print media and the electronic media. The more probable explanation is Justice Reddy's legitimate concern that economic colonisers or giant industrial empires may dominate the economy of our country and monopolise freedom of expression for commercial ends as is apparent from his repeated references to the state's obligation "to ensure that the broadcasting media is not monopolised, dominated or hijacked by privileged, rich and powerful interests". So long as the Constitution is not amended and the decision

in *Sakal Papers* holds the field, however, it is not permissible to enlarge the areas of restriction on freedom of expression.

The legal position about broadcasting in India is governed by the Indian Telegraph Act, 1885, described by Justice Jeevan Reddy as "totally inadequate" to govern the broadcasting media. By virtue of Section 4 of the Act the government has a virtual monopoly in respect of the broadcasting media. Is such a monopoly constitutional?

State Control

There is unanimity that "monopoly over broadcasting, whether by the government or by anybody else, is inconsistent with the free speech right of the citizens". It is rightly emphasised by Justice Reddy that "state control really means governmental control which, in turn, means control of the political party or parties in power for the time being. Such control is bound to colour the views, information and opinions conveyed by the media". The unanimous conclusion is that "the broadcasting media should be under the control of the public as distinct from government... It should be operated by a public statutory corporation or corporations, as the case may be, whose constitution and composition must be such as to ensure its/their impartiality in political, economic and social matters and on all other public issues. It/they must be required by law to present news, views and opinions in a balanced way, ensuring pluralism and diversity of opinions and views. It/they must provide equal access to all the citizens and groups to avail of the medium".

In 1990, Parliament enacted the Prasar Bharati (Broadcasting Corporation of India) Act, 1990, but unfortunately it was not brought into force. Now the government has no option but to enact appropriate legislation because the Supreme Court has directed the Centre to take immediate steps to establish an independent autonomous public authority on the lines indicated by the court. That is the most heartening part of the judgment.

Source: Times of India (Bombay), Feb. 14, 95

Public expose of crimes against women

Aruna Srinivasan

The participants at the first public enquiry organised by NCW in Delhi were vocal about their demand for justice.

A Packed auditorium. The audience is listening intently to the speakers on the platform. Suddenly, a participant on the stage breaks up in tears. What is happening here? Some popular play being enacted by some famous troupe?

The scene contained every element of drama. But the stories unfolded in the first public enquiry on crimes against women in Delhi, organised by the National Commission for Women (NCW), happened to be excerpts from real life. The participants comprised aggrieved women from all strata of society. Highly educated women with professions as varied as medicine or law, shared the platform with totally uneducated and harassed victims.

Crimes against women are usually categorised as rape, kidnapping, dowry deaths/harassment, torture, molestation, and eve-teasing. There has been a recent addition to the list-injustice at work place.

The response to the enquiry was tremendous. While NGOs involved in women's movement put forth many cases, the Social Welfare Board referred to a number of cases too. And there were some who had approached the National Commission for

Women (NCW) directly. In all, about 25 cases were heard over a period of two days.

The case of Anup Yadav, Sub-Judge cum JMFC Karnal, was presented by Mahila Dashila Samiti. She complained against harassment by some administrative officials of Punjab and Haryana High court, Chandigarh. Presently under suspension orders, she wants to be reinstated and posted at the place of work of her husband who is a superintendent of police. It was when she was working at Rohtak that she got transfer orders to Karnal. She had a one-year-old baby at that time and also had a gynaecological problem because of which she could not travel frequently. She wanted to be posted at Jind, the place where her husband was working at that time. When her request was not adhered to, she applied for medical leave.

Says Yadav, "When my request to be posted along with my husband got rejected, I joined in Karnal as per my transfer orders and applied for medical leave. It was sanctioned till December 19, 1993 but with the stricture that no further leaves will be granted to me. Later this leave also was cancelled-I never knew why-and I was asked to take up duty. Some officials even remarked that since I was the wife of an IPS officer and daughter

of an educational officer, I was trying to have things my way. In effect, all that I was asking for was a posting in the place of work of my husband. It is allowed in Government policy. But it is flouted by Punjab and Haryana High Court. I am constantly harassed by the authorities asking for explanations from me for not joining work."

Anup Yadav also levels the charge that her medical leave was terminated against the rules. "As per the rules, medical leave can be cancelled only before a medical board which studies the case and decides accordingly. I said I cannot rejoin duty without a fitness certificate. But nobody bothered to hear me," she explains. By exposing her case in public she hopes to get some justice in her case. "I am definitely optimistic that things will move in my favour from now on," she says.

Expressing similar sentiments about the enquiry is Myra Dias, Secretary to Regional Manager, Western Region, Vayudoot Ltd. Her complaint is sexual harassment and exploitation at work place, resulting in non-promotion to higher grades. In 1986, Dias joined as Secretary to Regional Manager in Bombay.

Says she, "In 1989 there was a mass promotion in the organisation. But for some reason mine was held up, despite my excellent track record. I have an outstanding report from my bosses. But the Chief Manager, Personnel, explained that it was for some "personal reason" that he has had to withhold my promotion. When I probed about this further, he said that he will discuss it with me at Juhu Centre. That was an obvious invitation which I flatly refused to comply with."

Harassment at work place was carried out to the extent of demotion in Dias's case. "I have been demoted to the stenographer level. I will fight till I get my due grade. I have appealed for justice at all levels of authority. Since the concerned Chief Manager, Personnel is related to the then Managing Director of Vayudoot, people try to ignore my representations. While many in the organisation who are not eligible for promotion stand promoted, I, with my outstanding reports am victimised for no fault of mine."

Dias understands the limits of the Women's Commission. That it cannot take any action on its own to render justice. But "I am optimistic that something definitely would come out of entire exercise. I wait, hoping. At least, I have the satisfaction that I am exposing the people who have wronged me. By bringing my case to this public enquiry I am creating an awareness in the public about one of the crimes committed against women," she says.

The cases cited here have proved the collapse of the police force, their inactive posture. It has exposed the inactivity, complacency and corruption of the authorities

And then there is Om Kumari Gupta, Associate Professor at Kanour Medical college, who stated before the enquiry that she was abused and man-handled by the head of the department at the institution. Says she, "I was attacked physically under the wrong notion that I did not take a lecture. That the allegation was wrong was established later. But the principal refused to take any action against the head of the department. I have been fighting for the past one and a half year to expose the crime. I need quick justice as I have come to know that Uttar Pradesh Government is trying to manipulate the department enquiry report, in which he had been blamed clearly, so that he is given a clean chit. He is an influential man and in the past he has been blamed for other misdeeds too. In fact, in the initial stages of my fight I myself was viewed as the criminal, because the professor was spreading wrong information. In those days, people used to be scared of me and tried to avoid me."

Educated women courageously took the stage and clearly articulated their troubles mostly at the work place. While the uneducated and less informed women simply narrated their 'horror stories of harassment for dowry, rape and so on. Mothers who have lost their daughter in dowry deaths, women who were molested, women who were divorced against their wishes and the list went on. Most of them wept as they described their tortuous experiences. As the hearing proceeded, one victim from the audience waiting for her turn got up and began to shout in a frenzy of anger at the people who have wronged her.

The agony witnessed in reality-and not in some climax scene of a cinema or soap opera-was hard to take in. One cannot dismiss the enquiry as just one more effort to highlight the sufferings of women. The very purpose of the public enquiry, as the organisers pointed out, was to create awareness and sensitise the public about issues involved. The NCW would follow up the cases by writing to the concerned authorities.

Almost all the women who had come out with their grievances, did so only when several attempts to get justice in the existing system failed to bring them any solace. It is significant to note that the educated women professionals who had grievances at work place had the full support of their husbands. Most accompanied their wives to the forum and Vayudoot's Myra Dias talked of the moral support she gets from her husband. But what about the helpless women who are left in the lurch with no support at all- like Khursheed

Khan who initially refused to speak but came out after hearing the experiences of other women. She was divorced under the Muslim law of declaring "talaq" three times. "there is no protection in law for Muslim women in India. The Government should pay at least Rs.1000 per month to all divorced Muslim women," she says.

Says Padma Seth, Member, NCW, "They are all basically helpless cases, resigned to a system which has become unchangeable. We used this public enquiry to think about ways to help them. If things go on like this there would be the risk of rejecting the system itself. Keeping in view the existing system and the delivery of justice, we tried to see how we can help them. This is essentially an explanatory exercise. We should think-all the bodies, NGOs and the statutory ones-why should we carry on with a system which signals so many cracks. We must think of a new dispensation of justice. The cases cited here have proved the collapse of the police force, their inactive posture. It has exposed the inactivity, complacency and corruption of the authorities," says she. Especially, with the shadow of political pressure hovering in the background in most cases, Seth's observations reflect the truth.

NCW has opened up a Pandora's box by having this public enquiry where suggestions from lawyers, NGOs and others were heard. Now it remains to be seen whether it will have some impact on the system.

Source: The Pioneer, New Delhi, 25 January 95

Writ petition for Establishment of the Lok Pal System

In The Supreme Court of India, Civil Writ Jurisdiction

Writ Petition (C) No. Of 1994

In the matter of common cause

Versus

1. UNION OF INDIA THROUGH THE SECRETARY, DEPARTMENT OF LAW, MINISTRY OF LAW, JUSTICE & CA.
2. UNION OF INDIA THROUGH THE SECRETARY MINISTRY OF PARLIAMEN-TARY AFFAIRS.

A PETITION BY WAY OF PUBLIC INTEREST LITIGATION UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA PRAYING FOR ISSUANCE OF A WRIT OF CERTIORARI OR ANY OTHER WRIT, ORDER, OR DIRECTION DIRECTING THE UNION OF INDIA IN THE MINISTRY OF LAW, JUSTICE AND COM-PANY AFFAIRS AND MINISTRY OF PAR-LIAMENTARY AFFAIRS, TO SPECIFICALLY DECLARE AS TO WHEN THEY WILL BRING BEFORE THE PARLLAMENT AN AP-PROPRIATELY DRAFTED BILL FOR ENACT-MENT OF LEGISLATION FOR SETTING UP THE CONTEMPLATED AND RECOM-MENDED SYSTEM OF LOKPAL IN THE COUNTRY FOR CHECKING AND PROHIBIT-ING CORRUPTION AND MALFUNCTIONING IN GOVERNANCE, TAKING INTO ACCOUNT THE FACT THAT OVER THE PAST THREE DECADES THE RESPONDENTS HAVE

REPEATEDLY THWARTED OR NEGLECTED TO MEET THIS ESSENTIAL REQUIREMENT, THEREBY CONSTITUTING VIOLATION OF FUNDAMENTAL RIGHTS OF THE PEOPLE ENSHRINED IN ARTICLE 14 AND 21 OF THE CONSTITUTION OF INDIA.

1. That the Petitioner is a Society registered under the Societies Registration Act which has taken up various common problems of the people for securing redressal. It has inter alia taken to the courts certain matters of general public interest and importance for seeking appropriate redress. Through three Writ Petitions the Petitioner secured judgements from the Hon'ble Supreme Court, extending certain pen-sionary benefits to more than two million pensioners. Writ Petitions on certain other mat-ters of public importance have also been taken to the Hon'ble Supreme Court. These include matters relating to Property Tax, Malfunction-ing of Blood Banks, Implementation of Consumer Protection Act, and such like. The Petitioner has thus established its locus standi for taking up citizens' causes for seeking redressal.
2. That the Petitioner, on behalf of itself and on behalf of the citizens of India, in public interest, is filing the present Writ Petition, aggrieved

by the arbitrary, deliberate and mala fide action of the Respondents avoiding to present an appropriate Bill before the Parliament for establishing the institution and system of LOKPAL which would enable the Bill to be enacted for the purposes of setting up the desired LOKPAL institution or a suitable alternative system for checking corruption and malfunctioning in governance at the political level. Bill for setting up such an institution and system of LOKPAL were introduced in the Parliament on various previous occasions. in 1968, 1971, 1977 and 1985, but every time through negligence and deliberate default the Bills were allowed to lapse or were withdrawn. The default comprising deliberate omission or gross negligence of Respondents in the important matter of setting up the system and institution of LOKPAL, which was proposed for the purpose of checking corruption in public life at political level is tantamount to violation of fundamental rights of the people. Since the withdrawal of the Bill, on the last occasion in 1988, there has been no positive substitute effort in evidence in bringing before

the Parliament a properly drafted Bill for the purpose. This deliberate omission on the part of Respondents is an arbitrary and mala fide action which has affected the fundamental rights of the citizens of the country to have an efficacious and effective remedy for checking and prohibiting corruption and injustice in public offices.

3. That the Respondents are statutory authorities who are responsible for the protection of fundamental rights of the citizens of India on whose behalf the Petitioner is filing the present Writ Petition.
4. That the facts and circumstances leading to the submission of present Writ Petition are summarised in the paragraphs that follow.
5. That the Santhanam Committee on Prevention of Corruption (1964) had recommended the formulation of a code of conduct and establishment of a independent investigative body. The then Government expressed itself in favour of the code and ignored the need for establishing the recommended investigative body. A code of conduct for Ministers was published

SC to focus on corruption

The Supreme Court has now decided to turn its attention towards curbing the menace of rampant corruption in the country.

An indication to this effect came from the Division Bench of Justice Kuldip Singh and Justice N Venkatachala on 10th February, while hearing a writ petition filed by Mr.H.D. Shourie, Director, Common Cause, a registered society, which takes up various common problems of the people for securing redressal. In their order, dictated in the open court, the judges said "after hearing Mr. Shourie, appearing in person, we give him liberty to amend the petition by making it broad based on the subject of curbing corruption in the country".

Mr.Shourie, in his petition, had sought the court's intervention for enactment of legislation for establishment of the Lok Pal system or for the creation of a suitable alternative institution.

Source: Indian Express 11 February '95

on 24 October 1964 but even after three decades the country is still without an independent executive body which can function without approval of the persons whose conduct it would be its duty to investigate, including the Prime Minister and other Ministers of the Government of India.

6. That the first endorsement of concept of LOKPAL in the country came through the Administrative Reforms Commission Report on Problems of Redress of Citizens Grievances submitted by its Chairman Shri Morarji Desai in October 1966. The Commission had held discussions with the Prime Minister and other Central Ministers besides other Chief Ministers, political leaders and senior government functionaries. They recommended the appointment of ombudsmen. The Chief Ombudsman, to be called Lokpal, was to deal with complaints against the administrative acts of Cabinet Ministers and high level services, while other Ombudsmen to be appointed in the States, to be called LOKAYUKTAS were to deal with the complaints against the administrative acts at the level of States and against all other services. The status and conditions of the LOKPAL were to correspond to those of Chief Justice of India while LOKAYUKTAS were to be equated to the Chief Justice of High Courts.
7. That on the basis of these recommendations a Bill for the purpose (NO. 51-C of 1968) was introduced in the Lok Sabha on 9-5-1968, which passed it with certain amendments on 20-8-1969. While the Ombudsmen elsewhere were to deal with the grievances against the administration, a new dimension was given to the concept by covering all allegations of political and bureaucratic corruption. It was considered that while in various other countries the matter of corruption or abuse of power could be referred to an Ombudsman only in the context of grievance raised by the aggrieved person, it would be appropriate to provide for grievances also to be heard where these were made by persons not directly aggrieved, i.e. by persons who may not be directly con-

cerned but who feel that a matter of corruption at the political and top levels needed to be investigated. The Lok Sabha was, however, dissolved in December 1970 before the Bill could be passed by the Rajya Sabha; and consequently the Bill lapsed.

8. That another Bill on almost the same lines was introduced on 11-8-1971 but, even though the Lok Sabha functioned for five years and more thereafter, it was not enacted. This Bill too lapsed on dissolution of the Lok Sabha in 1977.
9. That thereafter in 1977 the Janata Government introduced a Bill in which the focus was laid on corruption attributable to political public men. The Bill covered acts of Ministers and Members of Parliament, excluding bureaucracy from its purview. Report of the Joint Committee of both Houses on the Bill was tabled in Parliament on 20-1-1978. In the Joint Committee the inclusion of Members of Parliament and the exclusion of civil servants came in for criticism in the minutes of dissent appended to its Report. This Bill also lapsed on dissolution of the Lok Sabha in 1979.
10. That in 1985 another Bill was introduced. In this Bill certain departures were made from the 1977 Bill. They were: first, to exclude the Prime Minister, the Speaker and other M.Ps from purview of the Bill; second, to do away with the inclusive nature of the definition of corruption given in 1977 Bill and instead to restrict the scope of complaints to relevant provisions of Prevention of Corruption Act and the Indian Penal Code; third, to confer on the Lokpal the power to stay pending criminal investigation in respect of the same allegations; fourth, to bar prosecution on allegations held by the Lokpal to be not proven or false.
11. That while the Union of India has not yet enacted the requisite legislation for setting up the institution of Lokpal it needs to be observed that eleven States have since enacted their own Acts for establishment of such institutions,

calling it Lokpal in one State (Orissa) and Lokayukta in all others. Some of them are based on the pattern recommended by Administrative Reforms Commission while others are based on provisions incorporated in the 1977 Bill with some variations.

12. That the Bill moved in 1985 was deliberated upon by a Joint Parliamentary Committee which toured various parts of the country for the purpose of ascertaining views. In 1988, when the Committee was about to conclude its task, the Bill was withdrawn.
13. That the current degradation and debasement of moral values in public life, coupled with the exponential increase in political and bureaucratic corruption, has made it imperative on the Government to establish modalities, institutions, and structures to check and control corruption. The presently available means of checking corruption, comprising the Prevention of Corruption Act, Commission of Inquiry Act, Central Vigilance Commission and the Central Bureau of Investigation do not obviously cover the area which is contemplated to be dealt with by the institution of Lokpal.
14. That inspite of the five attempts since 1968 to establish the Lokpal institution, the Union of India has arbitrarily, unreasonably and negligently failed to properly initiate action, or has continuously and deliberately thwarted action, to establish the institution of Lokpal or to establish an equally effective alternative remedy.
15. That by withdrawing the Lokpal Bill in 1988 and not re-introducing suitable Bill for the purpose until now the Union of India has acted arbitrarily and unreasonably, neglecting its duty towards the people of India as mandated by the Constitution of India.
16. That the Petitioner has not filed any other Petition in this Hon'ble Court or in any other court to seek same or similar relief.
17. That all other remedies have been exhausted and the Petitioner is left with no alternative

except to approach this Hon'ble Court under Article 32 of the Constitution of India, inter alia, on the following grounds:

Grounds

- a) Because the Petitioner and the similarly placed citizens of India are aggrieved by the arbitrary, discriminatory and malafide action of the Respondents, deliberately defaulting in presenting an appropriate legislation for establishment of the system of Lokpal or a suitable alternative institution for checking the cancerous growth of corruption in public life, inter alia, at the top political level. It is submitted that the action of Respondents in allowing previous Bills for the purpose, introduced in the Parliament, to lapse, thereby disabling enactment of the desired important measure, comprises gross negligence and deliberate omission which is tantamount to violation of fundamental rights of the people of India. The omission to reintroduce the Bill, after its withdrawal in 1988, in the circumstances of prevailing and exponentially expanding corruption in public life, can only be termed a deliberate attempt at withholding enactment of an important legislation which is required to help provide efficacious and effective remedy for checking and prohibiting corruption and malfunctioning in public offices; and this is tantamount to violation of the fundamental rights of the citizens enshrined in Articles 14 and 21 of the Constitution of India.
- b) Because the current degradation and debasement of moral values in public life, coupled with the enormous increase in political and bureaucratic corruption has made it imperative on the Government to establish modalities, institutions, and structures to check and control corruption. The presently available ways to check corruption, comprising the Prevention of Corruption Act, Commission of Inquiry Act, Central Vigilance Commission, and Central Bureau of Investigation, obviously do not cover the areas which need to be dealt with by the institution of Lokpal.

- c) Because inspite of five attempts since 1968 to establish the Lokpal institution, the Government has arbitrarily, unreasonably and negligently failed to properly pursue in the Parliament an appropriate Bill for establishing of the institution of Lokpal or to establish an alternative remedy.
 - d) Because the right to life under Article 21 of the Constitution of India includes a corruption free life, and absence of a proper legislation or an alternative provision for the purpose, is violative of the right under Article 21 of the Constitution. Default in pursuing the objective of enactment of requisite legislation for the purpose, effecting withdrawal of the Bill in 1988, and non-introduction of an alternative Bill since then for achieving this important objective, is obviously tantamount to violation of Article 14 of the Constitution.
 - f) Because Part IV read with the fundamental rights under Part III of the Constitution, especially Articles 14, 21 and 19 endow the citizens of India with the fundamental right of protection from corruption in public offices and public life, enforceable by this Hon'ble Court.
- a) Pass an appropriate writ, order or orders directing the Respondents to specifically declare as to when they will bring before the Parliament an appropriately drafted Bill for enactment of legislation for the establishment of the institution of Lokpal, or a suitable alternative system, for checking and controlling corruption in public offices, inter alia, at the political level;
 - b) Pass an appropriate writ, order to orders appointing a Commission or Commissioner to urgently undertake comprehensive study of the matter concerning failures and omissions on the part of the Respondents in initiating proper action for enactment of such desired legislation, and to submit a Report to this Hon'ble Court with suitable suggestion for necessary action;
 - c) Pass such other further order or orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

Prayers

That in view of the facts and circumstances stated above it is most respectfully prayed that this Hon'ble Court may be graciously pleased to:

*Drawn and Filed by
H.D. Shourie
Director, Common Cause
(Petitioner in Person)*

Landmark Verdict on Workers' right

The Supreme Court's recent judgement on the Worker's right to health and safety goes beyond the immediate context of the hazardous situation in the asbestos and mining industries which had been brought before the court through a public interest litigation. The judgement has laid down that the right to health and medical care is a fundamental right and thus enlarged the scope of Article 21 of the Constitution which guarantees the right to life and liberty to citizens. It has made it obligatory for all employers to provide health facilities to workers while in service and even after retirement. The petition had sought remedial measures for workers who stood the risk of contracting diseases like asbestosis which is caused by the inhalation of asbestos fibres. Asbestos industry has not been famous for observing safety norms and the court has now made it mandatory for it to monitor the health of the workers and offer compensation for damage arising from occupational reasons. All factories have also been directed to give compulsory health insurance to workers. Another aspect of the judgement, which is of importance, is the directive to the asbestos industry to keep the health record of a worker for a minimum period of 40 years from the joining dates or 15 years after retirement or discharge from the job. The factory management would be responsible for any health problems of the worker during this period, arising from occupational factors. This should help to stop the present practice of many employers who dismiss a worker to escape responsibility. It will also cover long-term risk to health which is quite common in hazardous industries.

Source: Deccan Herald (Bangalore), 8 February '95

SC rules against pre-arrest bail

Offences against scheduled castes, scheduled tribes

In a major decision advancing the right of the oppressed against humiliation and atrocities, the Supreme Court has ruled that the accused arrested for committing offences against scheduled castes and scheduled tribes citizens would not be entitled to pre-arrest bail.

"If the benefit of anticipatory bail is made available to the persons who are alleged to have committed the offences, there is every likelihood of their misusing the liberty," observed a two-judge bench of Justice B.P.Jeevan Reddy and Justice Sujata V. Manohar.

While holding that section 18 of the SC and ST (Prevention of Atrocities) Act, 1989, was not violative of Article 21, the judges said the offences, to say the least, denigrate members of scheduled tribes "in the eyes of society and prevent them from leading a life of dignity and self-respect." Article 21 of the Constitution guarantees protection of life and personal liberty of every person in the country. It enshrines the right to live with human dignity, a precious right to which every human being is entitled to. The court in its 14-page verdict said "those who have for centuries been denied this right, need this protection more."

The judges set aside the Madhya Pradesh high court judgement which declared that the persons alleged to have committed offences against the SC or ST were entitled to pre-arrest bail under section 438 of the Code of Criminal Procedure (Cr.P.C.). The high court had declared that denial of pre-arrest bail to such persons was violative of Articles 14 (equality) and 21.

Upholding the Madhya Pradesh government's appeal challenging the judgement, the apex court

delved deep into the historical background necessitating the legislation. It said these offences were committed to "humiliate and subjugate members of SC and ST with a view to keeping them in a state of servitude. These offences constitute a separate class and cannot be compared with offences under the penal code."

Source: *Times of India (Bombay)*, 2 February '95

SC orders U.P. to compensate nuns

The Supreme Court ordered that the two nuns raped inside St. Marie Missionary School at Gujraula in Uttar Pradesh by some intruders about five years ago be paid a compensation of Rs.2.50 lakh.

Five other sisters who were assaulted and molested at the time were given a compensation of Rs. one lakh each.

A two-judge bench comprising Mr. Justice Kul-dip Singh and Mr. Justice N. Venkatachala directed the Uttar Pradesh government to pay this amount within two months and suspend the three officials, including the medical officer of Moradabad's V.Z. Hospital Meera Singh, for their "lapse and misconduct" in the case.

The court had gone into the Central Bureau of Investigation's report which also recommended action against a head constable of the police station and "other doctors" of the hospital for their misconduct in the rape and molestation.

Source: *Times of India (Bombay)*, 7 February '95

SC to refer Narmada issue to review group

The Supreme Court announced that it proposed to refer to the Five-Member Review Group appointed by the Centre the contentious issues on the Sardar Sarovar Project, after considering on January 24 the responses of the Centre and the Governments of Gujarat, Maharashtra, Madhya Pradesh and Rajasthan.

A Division Bench, comprising Justices J.S. Verma, S.P. Bharucha and K.S. Paripoornan, were told by Solicitor-General Dipankar Gupta that their

direction of December 13 last year to publish the report, had been complied with.

Source: *The Pioneer (New Delhi)*, 1 January '95

Ban on sale of human organs

The sale of human organs has been banned in the country with a Central Act prohibiting it from 4th February.

The ban comes in the wake of exposure of a large-scale racket in Bangalore where doctors duped hundreds of unsuspecting people by removing their kidneys on promises of money and jobs in the Gulf.

The transplantation of Human Organs Act which comes into effect on 4th February was passed last year by Parliament following Press reports of trade in human organs in major cities.

The new legislation provides for restrictions and regulations on hospitals engaged in conducting the removal, storage or transplantation of human organs.

The Act is at present applicable to Maharashtra, Himachal Pradesh, Goa and the Union Territories. It will apply to other States from the dates those States adopt this Act.

It provides for prohibition of removal or transplantation of human organs for any purpose other than therapeutic and only after, explaining the effect to donor and recipient.

It provides for registration of hospitals engaged in removal, storage or transplantation of human organs and punishment for removal of human organs without authority and for commercial dealings.

According to the Act, no human organ shall be removed from the body of a donor before his death and transplanted into recipient unless the donor is a near relative of the recipient.

It is also provided that any donor authorising the removal of any of his human organs before his death for transplantation into the body of a recipient, not being a near relative, such human

organ shall not be removed and transplanted without the prior approval of an authorisation committee.

Source: *The Pioneer (New Delhi)*, 5 February '95

SC ruling on age limit for advocates

The Supreme Court upheld a judgement of the Madras High Court, striking down the Bar Council of India (BCI) rule, prohibiting law graduates above the age of 45 from enrolling themselves as Advocates.

In a judgement given by Chief Justice A.M. Ahmadi on behalf of Justices S.Mohan and K.S.Paripoornan and himself, the BCI rule was struck down as being violative of Article 14 (Equality Before The Law).

The BCI had introduced the rule to allay apprehensions of the Bar that retired persons, particularly from the income tax and land acquisition departments, would swamp the field to the detriment of their own scope for practice in these spheres.

Source: *The Pioneer (New Delhi)*, 19 January '95

First State Human Rights Panel Formed

Mr. Justice Ranganath Mishra, Chairman, National Human Rights Commission, announced in Calcutta on 30th January the formation of a human rights commission in West Bengal - the first in any State - adding that such commissions would be set up in six other States.

Source: *Statesman (Calcutta)*, 31 January '95

Death of youth by police torture

SC orders relief to dependents

The Supreme Court on 3rd February directed the Haryana Government to pay an ad hoc relief of Rs. two lakh to the dependents of a 22-year-old youth, a resident of Delhi, who allegedly died as a result of torture by the Gurgaon police during March 1993.

Further directing the Central Bureau of Investigation (CBI) to inquire into the matter expeditiously, the Division Bench of Justice M.M. Punchhi and Justice K.Jayachandra Reddy stated in its order that though the amount would be non-refundable, but would be taken into account while deciding the civil liability of the perpetrators of the crime.

The judges noted in their order that he "is candid enough to say that this is a custodial violence which led to the death of Mr.Ashok Kumar".

Source: *Indian Express* 4 February '95

Violence on women is a community issue

Violence Against women should be viewed as a community problem rather than a women's problem and social action groups should have advocacy programmes for the community so that it puts a stop on violence against women. This was one of the major recommendations of a Tribunal on Rape and Dowry Violence held in New Delhi.

The tribunal was held by an organisation called Women's Political Watch and the jury panel was presided over by Justice, P.N. Bhagwati, former Chief Justice of India and the other panelists were Ms.Sona Khan, Supreme Court lawyer and Dr.Nikita Kamal. The Lok Sabha speaker Shivraj Patil was the chief guest.

According to Ms.Veena Nayar the specific goals of the tribunal are to i) sensitise and raise awareness of national issues of gender-based crime, ii) highlight the urgency of adequate provisions, strict enforcement structures and ever-watchful screening of attitudes of those who are placed in positions of interpreting and implementing laws.

The jury's recommendations were based on the victims' testimonies. Many victims of dowry did not live to narrate their saga of harassment. They had all fallen prey to the greed of their husband and in laws and their predators are roaming free.

There were many cases of women harassed, beaten and finally murdered for dowry and the

target of these families' ire apart from the in-laws was the police. Then there were also women and girls who having become victims of men's lust and are also victims of a social order which holds them responsible for becoming a victim.

The testimonies of rape victims were read out by others.

Source : The Pioneer(New Delhi) 5 February '95

APDR book finds 183 cases of lock-up deaths

At least 183 people died after torture in police lock-ups during the Left Front rule in West Bengal between 1977 and January, 1995. Of them, 23 were activists of various political parties and their frontal organizations, including the CPI(M), the SFI, DYFI, CITU, RSP, the CPI, the Congress(I) and the BJP.

These revelations are part of a book entitled "Lock-up deaths in West Bengal (1977-1995)" published by the Association for Protection of Democratic Rights. The actual figure of lock-up deaths, in the 17 years that the Left Front has been in the saddle, according to the APDR, is likely to be much higher.

Going by the figures given in the book, instances of such deaths were the highest in 1988 and 1994, with 21 and 22 deaths in custody, respectively. The APDR book contains a long list of such cases of death during the past 17 years. It was indeed an irony of fate that such cases should have taken place in the reign of the Leftists, who, during successive Congress(I) regimes in the past, had condemned such cases, the book observed.

According to the APDR's investigations as stated in the book, most of the victims were from poor families. Consequently, their families could rarely afford to move the courts to secure justice. It is strange to find that the cause of the deaths cited by the police in all these cases is almost identical: suicide in lock-up by hanging, heart attack, severe beating at the hands of the mob and also death from injury while trying to escape from police vehicles.

While in some cases, the erring police personnel had been either suspended or transferred, in several, hardly any action was taken against the

guilty policemen. In 1989, the Commissioner of Police, Calcutta, said of the 17 lock-up deaths in the past five years, no proper inquiry was conducted against the police in 12 cases.

This, according to the book, contradicts a statement by the Chief Minister in the State Assembly that action had been taken against the police whenever they were found guilty. Of the total custody death cases in the past 17 years that the book discusses, 23 involved the death of political activists.

37 trade unions denied right to hold meetings

The Bombay police have denied a group of 37 trade unions and social service organisations, which represent lakhs of workers, the right to hold street-corner meetings and distribute pamphlets prior to the assembly elections, prompting them to approach the Bombay high court in a writ petition. In response to applications made by these organisations for permission to hold meetings in different parts of the city, the Sakinaka police told them that the pamphlet they sought to distribute had the potential of disturbing the law and order situation.

Judges said it was normal practice during an election to hold street corner meetings. "Get this clear. Freedom of speech and expression is not suspended during an election". "This matter raises important issues. The constitution gives fundamental rights which can only be curbed by reasonable restrictions," the judges said. "Barring the emergency, this is the first time that the police are trying to censor literature being put out by citizens," first petitioner Satyajit Bhatkal said. "If the pamphlet says something illegal, the police are always free to take action afterwards. But they cannot scrutinise our pamphlet and on that basis deny us permission to hold meetings. We represent responsible organisations who want to put up an agenda for debate during the elections. If people are not allowed to do this, voting will have no meaning," he added.

Source: The Times of India(Bombay) 3 February '95

